United States Court of Appeals

for the Second Circuit

SUPPLEMENTAL APPENDIX

ORIGINAL

76-1495

United States Court of Appeals
FOR THE SECOND CIRCUIT

UNITED STATES OF AMERICA,

Appellee,

against

EUGENE SCAFIDI, BARIO MASCITTI, ANTHONY DI MATTEO, SAVERIO CARRARA, MICHAEL DELUCA, JAMES NAPOLI, JR., JAMES V. NAPOLI, SR., ROBERT VOULO and SABATO VIGORITO,

Appellants.

APPEAL FROM A CONVICTION IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK

SUPPLEMENTAL APPENDIX TO BRIEF FOR APPELLANT (ANTHONY DI MATTEO)

ALBERT J. BRACKLEY, Esq.
Attorney for Appellant
Michael DeLuca
186 Joralemon Street
Brooklyn, New York 11201

DOMINICK DICARLO, Esq.
Attorney for Appellant
Robert Voulo
66 Court Street
Brooklyn, New York

DAVID GOTTLIEB, Esq.
Federal Defender Services Unit
Attorney for Appellant
Bario Mascitti
United States Courthouse
Room 509
Foley Square
New York, New York 10007

RICHARD W. HANNAH, Esq.
Attorney for Appellant
Anthony DiMatteo
586 Fourth Street
Brooklyn, New York 11215

MAX WILD, Esq.
Attorney for Appellant
James V. Napoli, Sr.
645 Fifth Avenue
New York, New York 10022

GUSTAVE H. NEWMAN, Esq.
Attorney for Appellant
Sabato Vigorito
522 Fifth Avenue
New York, New York 10036

THOMAS J. O'BRIEN, Esq.
Attorney for Appellant
James Napoli, Jr.
2 Penn Plaza
New York, New York 10001

SALVATORE PIAZZA, Esq.
Attorney for Appellant
Saverio Carrara
824 Manhattan Avenue
Brooklyn, New York 11222

ARNOLD E. WALLACH, Esq.
Attorney for Appellant
Eugene Scafidi
11 Park Place
New York, New York 10007

DAVID G. TRAGER, Esq.
United States Attorney for
Eastern District of New York
35 Tillary Street
Brooklyn, New York 11201

UNITED STATES COURT OF APPEALS
FILED
FEB 15 1977
A. DANIEL FUSARO, CLERK
SECOND CIRCUIT

PAGINATION AS IN ORIGINAL COPY

TABLE OF CONTENTS

Authorization of Attorney General Richard G. Kleindienst, dated December 7, 1972 authorizing oral electronic surveillance on certain persons at apartment 309, 8-15-27th Avenue, Astoria, New York with covering letter from Henry E. Petersen, Assistant Attorney General : 1a

6 Reports to Judge Judd on Title III Order of December 8, 1972 with covering letter 3a

Order of Judge Judd sealing tapes dated January 16, 1973 12a

Order of Judge Judd, dated March 22, 1973 postponing service of inventory of December 8, 1972 to June 22, 1973 13a

Order of Judge Judd, dated April 30, 1973 extending service of inventory of Court's Order of **Jan. 15,1973** be postponed, pursuant to 18 U.S.C. Section 2518 (8) (b) until June 22, 1973 together with application and affidavit 14a

Order of Judge Weinstein, dated January 15, 1973 authorizing oral electronic surveillance of certain persons at apartment 309, 8-15-27th Avenue, Astoria, New York . 17a

Application of Robert G. DelGrosso dated January 15, 1973 in support of said Order-pages 1 to 5 20a

Affidavit of Charles J. Parsons, dated January 15, 1973 in support of application for oral electronic surveillance at apartment 309, 8-15-27th Avenue, Astoria, New York-pages 1, 2, 3, 4 25a

Letter and reports to Judge Weinstein sent by Robert G. DelGrosso, Special Attorney dated January 16, 17, 18, 19, 1973 with covering letter dated January 19, 1973 29a

Authorization of Attorney General Richard G. Kleindienst, dated January 12, 1973 authorizing oral electronic surveillance at apartment 309, 8-15-27th Avenue, Astoria, New York with covering letter of Henry E. Petersen, Assistant Attorney General 35a

TABLE OF CONTENTS

Order of Judge Judd, dated April 30, 1973 postponing service of inventory on Order of January 15, 1973 until June 22, 1973 with affidavit — 14a

Affidavit of Phyllis Engert, dated June 21, 1976 — 37a

Suppression Hearing Transcripts (certain pages) — 38a

Pages - 237-238 (monitoring at apartment 309) — 40a
257 (conversation Parsons with Mars) — 41a
269-278 (delay in sealing apartment 309 I) — 51a
281-300 (identity of Rossetti) — 71a
319 (pass keys to enter apartment 309 and Hi-Way) — 72a
322 (no agent saw DiMatteo or Mascitti enter apartment 309) — 73a
326-331 (got key from superintendent) — 79a
332 (re-entry to adjust bugs at apartment 309) — 80a
340 (never sought search warrant) — 81a
406 (never applied for further extension to serve inventory) — 82a
410-417 (explanation as to delay in sealing and test to start monitoring at apartment 309) — 90a
426-435 (description of DiMatteo by Agent Mitchell) — 101a
462-464 (delay in sealing) — 111a
481-488 (Mr. Barlow explaining procedure in obtaining authorizations) — 112a
489-498 (service of inventory and delay in sealing) — 122a
500-502 (conversation with Judge Bartels re: entry and re-entries at Hi-Way) — 125a
516-528 (reason Rossetti was struck out) — 125a
516-528 (logs not available when affidavit was drawn) — 139a
529 (in progress reports on apartment 309 I-never referred to DiMatteo after name was known)

Logs of monitoring Agent doing the monitoring-from December 8, 1972 to December 22, 1972 and from January 15, 1973 to January 31, 1973 — 140a

TABLE OF CONTENTS

3 photographs of DiMatteo taken on November 22, 1972 211a

6 photographs of DiMatteo taken on December 4, 1972 205a

Department of Justice
Washington 20530

Authorization of Attorney General

CR 7 172

Mr. Denis E. Dillon
Attorney in Charge
Brooklyn Strike Force
Brooklyn, New York

Dear Mr. Dillon:

This is to advise you that pursuant to the power conferred on him by Section 2516 of Title 18, United States Code, the Attorney General has authorized an application to be made to a Federal Judge of competent jurisdiction for an order under Section 2518 of Title 18, United States Code, authorizing the interception of oral communications for a fifteen (15) day period at the premises located at Apartment 309, 8-15 27th Avenue, Astoria, Queens, New York in connection with the investigation into possible violations of Title 18, United States Code, Sections 1955 and 371, by Joseph Mustacchio, Luigi Scafidi, a/k/a Gene, male known only as Barry Russo and John Doe II, and others as yet unknown. The memorandum of authorization approved by the Attorney General is attached hereto.

Accordingly, you or any other attorney on your staff who is an investigative or law enforcement officer of the United States within the meaning of Section 2510(7) of Title 18, United States Code, are authorized to make the above-described application.

Sincerely,

HENRY E. PETERSEN
Assistant Attorney General

Attachment

TO: Henry E. Petersen
Assistant Attorney General
Criminal Division

DATE: DEC — 1972

2a

RGK:FTB:sfm

FROM: Attorney General

Authorization of Attorney Gene[illegible]

SUBJECT: Authorization for Interception Order Application

This is with regard to your recommendation that I authorize an application to a Federal Judge of competent jurisdiction for an order under Title 18, United States Code, Section 2518, authorizing the interception [illegible]oral communications for a fifteen (15) day period at the premises located at Apartment 309, 8-15 27th Avenue, Astoria, Queens, New York in connection with the investigation into possible violations of Title 18, United States Code, Sections 1955 and 371, by Joseph Mistacchio, Luigi Scaffidi, a/k/a Gino, male known only as Harry Russo and John Doe D, and others as yet unknown.

Pursuant to the power conferred on me by Section 2516 of Title 18, United States Code, I hereby authorize the above-described application to be made by any investigative or law enforcement officer of the United States as defined in Section 2510(7) of Title 18, United States Code.

Richard G. Kleindienst
Attorney General

Date

UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

6 Reports to Judge Judd

Address Reply to the Division Indicated and Refer to Initials and Number

Organized Crime Section
Criminal Division
35 Tillary Street
Room 327-A
Brooklyn, New York 11201
December 18, 1972

Honorable Orrin B. Judd
United States District Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

RE: Title III Order - December 8, 1972
72

Dear Judge Judd:

Enclosed are letters dated December 11, 13, and 14, 1972, showing the course of intercepted oral communications at Apartment 309, 8-15 27th Avenue, Queens, New York.

Respectfully,

Fred F. Barlow
Special Attorney

DED.FFB:lp

4a

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

In Reply, Please Refer to File No.

201 East 69th Street
New York, New York 10021
December 11, 1972

6 Reports to Judge Judd

Mr. Denis E. Dillon
Attorney in Charge
Organized Crime Strike Force
Eastern District of New York
Cadman Plaza
Brooklyn, New York

Attention: Special Attorney Fred F. Barlow

Dear Sir:

As you are aware, a court order approving interceptions of oral communications at Apartment 309, 8-15 27th Avenue, Astoria, Queens, was issued at 10:00 AM on December 8, 1972 by United States District Judge Orrin G. Judd, Eastern District of New York, for a fifteen day period.

Installation of monitoring equipment for this apartment was completed at 8:05 PM on December 8, 1972. Per your instructions, monitoring is being limited to the period when the "bank workers" are utilizing the apartment (approximately 3:00 PM to 7:00 PM).

On Saturday, December 9, numerous conversations of a gambling nature were intercepted. Many of these conversations are garbled and not intelligible in their entirety; however, "street-names" of individuals known by this office to serve in a supervisory capacity in this operation were mentioned. For example, "Jimmy", "Lefty" and "Mikey, Jr." were mentioned in relation to when the bank workers would get their Christmas bonus. Barry Russo also used the telephone in the apartment to report what appeared to be the total "handle" for the day.

No monitoring was conducted on Sunday, December 10, 1972 as surveillance and experience shows this "bank" to operate Monday through Saturday.

6 Reports to Judge Judd

On December 11, 1972, numerous conversations of a gambling nature were intercepted but again interference from a radio played at high volume was experienced. A discussion of an imminent change in schedule due to the fact that the Aqueduct Race Track would close around December 16 was intercepted.

Sincerely yours,

JOHN F. MALONE
Assistant Director In Charge

6a

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

In Reply, Please Refer to File No.

201 East 69th Street
New York, New York 10021
December 13, 1972

6 Reports to Judge Judd

Mr. Denis E. Dillon
Attorney in Charge
Organized Crime Strike Force
Eastern District of New York
Cadman Plaza
Brooklyn, New York

Attention: Special Attorney Fred F. Barlow

Dear Sir:

On December 12, 1972, monitoring of oral communications at Apartment 309, 8-15 27th Avenue, Astoria, Queens, was conducted by Special Agents of the Federal Bureau of Investigation (FBI) from approximately 3:00 PM to 7:00 PM while the two "bank-workers", Barry Russo and "Tony Apples", utilized the premises.

In addition, Phyllis Engert, the lessee of the apartment, and a John Solar (phonetic) were present while this gambling activity was taking place. Conversations of a gambling nature were intercepted and other participants in this operation were referred to by their "street names".

Indications from conversations on this date reflect that these premises have been used on prior occasions by individuals known to Russo and also that Russo intends to continue to utilize these premises at least through Christmas.

Sincerely yours,

JOHN F. MALONE
Assistant Director in Charge

7a

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

In Reply, Please Refer to File No.

201 East 69th Street
New York, New York 10021
December 14, 1972

6 Reports to Judge Judd

Mr. Denis E. Dillon
Attorney in Charge
Organized Crime Strike Force
Eastern District of New York
Cadman Plaza
Brooklyn, New York

Attention: Special Attorney Fred F. Barlow

Dear Sir:

On December 13, 1972, monitoring of oral communications at Apartment 309, 8-15 27th Avenue, Astoria, Queens, was conducted by Special Agents of the Federal Bureau of Investigation (FBI)from approximately 3:00 PM to 5:30 PM while the two "bank workers", Barry Russo and "Tony Apples", utilized the premises.

Conversations of a gambling nature were intercepted and another individual who appears to currently be operating in another "office" of this operation was mentioned.

Sincerely yours,

JOHN F. MALONE
Assistant Director In Charge

UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

Address Reply to the
Division Indicated
and Refer to Initials and Number

6 Reports to Judge Judd

Organized Crime Section
Criminal Division
35 Tillary Street
Brooklyn, New York 11201
December 19, 1972

Honorable Orrin J. Judd
United States District Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Dear Judge Judd:

RE: Title III Wiretap Order of December 8, 1972

In connection with the above order, enclosed are copies of the reports from the Federal Bureau of Investigation of December 15, 16 and 18, 1972.

Respectfully,

Fred F. Barlow
Special Attorney

DED:FFB:lp

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

In Reply, Please Refer to File No.

201 East 69th Street
New York, New York 10021
December 15, 1972

6 Reports to Judge Judd

Mr. Denis E. Dillon
Attorney in Charge
Organized Crime Strike Force
Eastern District of New York
Cadman Plaza
Brooklyn, New York

Attention: Special Attorney Fred F. Barlow

Dear Sir:

On December 14, 1972, monitoring of oral communications at Apartment 309, 8-15 27th Avenue, Astoria, Queens, was conducted by Special Agents of the Federal Bureau of Investigation from approximately 2:30 PM to 6:00 PM.

Conversations of a gambling nature were intercepted and "street names" of individuals in this operation known to this office were mentioned.

Indications from conversations on this date reflect that the "bank workers" Christmas bonus will be only $125.00 this year instead of $250.00 due to the "office" splitting up.

Sincerely yours,

JOHN F. MALONE
Assistant Director In Charge

10a

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

In reply, Please Refer to
File No.

201 East 69th Street
New York, New York 10021
December 16, 1972

6 Reports to Judge Judd

Mr. Denis E. Dillon
Attorney in Charge
Organized Crime Strike Force
Eastern District of New York
Cadman Plaza
Brooklyn, New York

Attention: Special Attorney Fred F. Barlow

Dear Sir:

On December 15, 1972, a monitoring of oral communications at Apartment 309, 8-15 27th Avenue, Astoria, Queens, was conducted by Special Agents of the Federal Bureau of Investigation (FBI) from approximately 2:30 PM to 6:20 PM, while premises were utilized by "bank wokers", Barry Russo and "Tony Apples". In addition, an individual believed to be John Solar and leasee Phyliss Engert were present during a portion of the monitoring period.

Gambling conversations took place such as talk of "Tony Apples" being transferred to "Joe Black's" Bank. A phone number for "Black" was mentioned.

Sincerely yours,

JOHN F. MALONE
Assistant Director In Charge

11a

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

In Reply, Please Refer to File No.

201 East 69th Street
New York, New York 10021
December 18, 1972

6 Reports to Judge Judd

Mr. Denis E. Dillon
Attorney in Charge
Organized Crime Strike Force
Eastern District of New York
Cadman Plaza
Brooklyn, New York

Attention: Special Attorney Fred F. Barlow

Dear Sir:

On December 16, 1972, monitoring of oral communications at Apartment 309, 8-15 27th Avenue, Astoria, Queens, was conducted by Special Agents of the Federal Bureau of Investigation (FBI) from approximately 3:11 PM to 7:30 PM while premises utilized by "bank workers" Barry Russo and Rocco Ricciardi. Also present was Phyllis Engert, lessee of Apartment 309.

Conversations of a gambling nature were intercepted with discussions of "the number" and Rocco Ricciardi's role in a bank operation. Ricciardi, also known as "Rocky", was taking the place of "Tony Apples", who was not present. Russo indicated to "Rocky" that Apartment 309 is used everyday beginning at approximately 3:00 PM for the "banking" of policy work. Phyllis Engert discussed "policy" with Russo and Ricciardi.

No monitoring was conducted on December 17, 1972, a Sunday.

Sincerely yours,

JOHN F. MALONE
Assistant Director in Charge

FILED

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

Order of Judge Judd
Sealing Tapes

JAN 16 1 07 PM '73

CLERK
U. S. DISTRICT COURT
EASTERN DISTRICT
OF NEW YORK

IN THE MATTER OF THE APPLICATION

OF THE UNITED STATES FOR AN ORDER

AUTHORIZING THE INTERCEPTION OF

ORAL COMMUNICATIONS

ORDER

Pursuant to Title 18, United States Code, Section 2518 (8) (a), it is hereby ORDERED that the tape recordings of conversations intercepted pursuant to this court's order of December 8, 1972, be sealed and placed in the custody of the Federal Bureau of Investigation.

January 16, 1973

UNITED STATES DISTRICT JUDGE
EASTERN DISTRICT OF NEW YORK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----------X

IN THE MATTER OF THE APPLICATION OF THE

UNITED STATES FOR AN ORDER AUTHORIZING THE

INTERCEPTION OF WIRE COMMUNICATIONS

----------X

ORDER

Order of Judge Judd Postponing Service of Inventory

Upon review of the application and affidavit of Fred F. Barlow, dated March 22, 1973, it is hereby ORDERED that service of the inventory for this Court's order of December 8, 1972, be postponed, pursuant to 18 U.S.C. 2518 (8) (b) until June 22, 1973.

UNITED STATES DISTRICT JUDGE
EASTERN DISTRICT OF NEW YORK

Dated: Brooklyn, New York
March 22, 1973

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Order of Judge Judd Postponing Service of Inventory with Affidavit

----------X

IN THE MATTER OF THE APPLICATION OF THE

UNITED STATES FOR AN ORDER AUTHORIZING THE

INTERCEPTION OF WIRE COMMUNICATIONS

ORDER

73 W 1

----------X

Upon review of the application and affidavit of Fred F. Barlow, dated April 25, 1973, it is hereby ORDERED that service of the inventory for this Court's Order of January 15, 1973, be postponed, pursuant to 18 U.S.C. § 2518 (8) (b) until June 22, 1973

UNITED STATES DISTRICT JUDGE
EASTERN DISTRICT OF NEW YORK

Dated: Brooklyn, New York
April 25, 1973

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Order of Judge Judd Postponing Service of Inventory with Affidavit

----------X

IN THE MATTER OF THE APPLICATION OF THE

UNITED STATES FOR AN ORDER AUTHORIZING THE

INTERCEPTION OF WIRE COMMUNICATIONS

APPLICATION AND AFFIDAVIT

----------X

Fred F. Barlow, being duly sworn, says:

1. He is a Special Attorney with the Organized Crime and Racketeering Section of the Department of Justice, Brooklyn Strike Force, duly appointed and acting as such.

2. He has assisted Special Agent Charlie J. Parsons, Federal Bureau of Investigation, in this investigation since February, 1972, and is familiar with its facts and circumstances.

3. As shown by Special Agent Parsons' affidavits of May 1, 1972, December 6, 1972, December 20, 1972, January 15, 1973, January 18, 1973, and February 20, 1973 (2) all of which are incorporated herein by this reference, the present investigation of the alleged James V. "Jimmy Napp" Napoli, Sr. illegal gambling business has lasted almost two years, without sufficient evidence to prosecute Napoli,

4. However, affiant avers that in the last four months, sufficient evidence has been obtained from electronic surveillance to prosecute James Napoli, Jr., Michael DeLuca, Napoli lieutenants, and others, and many co-conspirator conversations inculpating Napoli, Sr. have been intercepted.

5. On April 12, 1973, the Honorable John R. Bartels signed an Order authorizing the interception of oral communications of James V. Napoli, Sr. and others. Through April 24, 1973, Napoli has been seen meeting at the monitored premises with many of the persons identified in Agent Parsons' affidavits as members of the Napoli gambling business; however, due to technical difficulties, he has been overheard and recorded in inculpatory conversations of sufficient clarity to be persuasive evidence on only one day, April 23, 1973.

Order of Judge Judd.

6. Affiant avers on the basis of the facts above that, if this investigation is allowed to remain covert for several months, then it is expected that continued electronic surveillance and Grand Jury presentation will provide sufficient evidence to prosecute Napoli, Sr.

7. Honorable Orrin G. Judd, United States District Judge, Eastern District of New York, on March 22, 1973, signed an Order pursuant to 18 U.S.C. §2518 (8) (d), postponing service of the inventory relating to his Order of December 8, 1972.

Wherefore, affiant respectfully requests that service of the inventory required by Title 18, United States Code, Section 2518 (8) (d) be postponed until June 22, 1973.

Fred F. Barlow

Order of Judge Judd Postponing
Service of Inventory with Affidavit

Sworn to before me this
25th day of ~~March~~ April, 1973.

NOTARY PUBLIC
STATE OF N.Y. -1027125
QUALIFIED WESTCHESTER
TERM EXPIRES 3-30-75

Order of Judge Weinstein dated 1/15/73.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----------X

IN THE MATTER OF THE APPLICATION FOR

THE UNITED STATES FOR AN ORDER AUTHORIZING

THE INTERCEPTION OF ORAL COMMUNICATIONS

----------X

AUTHORIZING INTERCEPTION OF ORAL COMMUNICATIONS

TO: Special Agents of the Federal Bureau of Investigation
United States Department of Justice

Application under oath having been made before me by Robert DelGrosso, Special Attorney with the Organized Crime and Racketeering Section of the United States Department of Justice, and an "investigative or law enforcement officer" as defined in Section 2510(7) of Title 18, United States Code, for an Order authorizing the interception of oral communications pursuant to Section 2518 of Title 18, United States Code, and full consideration having been given to the matter set forth therein, the Court finds:

a) there is probable cause to believe that Jerry Russo, Anthony DiMatteo, also known as "Tony Apples"; Rocco Ricciardi, also known as "Rocky"; Joseph Simonelli, also known as "Joe Black", Phyllis Ehrert; an individual referred to herein as John Doe, and others as yet unknown have committed and are committing offenses involving the conducting, financing, managing, supervising, directing, or owning in whole or part, a gambling business which (1) violates Article 225 of the New York State Revised Penal Laws, (2) involves five or more persons who conducts, finances, manages, supervises, directs, or owns all or part of such business, and (3) remains in substantially continuous operation for a period in excess of thirty (30) days, or has a gross revenue of $2,000 in any single day, in violation of Section 1955 of Title 18, United States Code, and the conspiracy to commit said federal offenses in violation of Section 371, Title 18, United States Code.

Order of Judge Weinstein.

b) there is probable cause to believe that particular oral communications of Barry Russo, Anthony DiMatteo, also known as "Tony Apples", and others concerning these offenses will be obtained through the interception, authorization for which is herein applied for. In particular, these oral communications will concern the conduct, financing, management, supervision, direction and ownership of a wagering and betting business, the duration and continuity of the operation of this business, the number, degree of participation and identity of persons active thereof, the location from which the participants operate, the origin and destination of bets, and the amount of revenue involved in such betting business.

c) normal investigative procedures reasonably appear to be unlikely to succeed, if tried further.

d) there is probable cause to believe that the premises located at Apartment 309, 8-15 27th Avenue, Astoria, Queens, New York, have been and are being used by Barry Russo, Anthony DiMatteo, also known as "Tony Apples"; Rocco Riccardi, also known as "Rocky"; Joseph Simonelli, also known as "Joe Black"; Phyllis Engert, and an individual referred to as John Doe D,and others as yet unknown in connection with the commission of the above-described offenses.

WHEREFORE, it is hereby ordered that:

Special Agents of the Federal Bureau of Investigation, United States Department of Justice, are authorized, pursuant to application by the Attorney General of the United States, the Honorable Richard G. Kleindienst under powers conferred on the Attorney General by Section 2516 of Title 18, United States Code, to intercept oral communications of Barry Russo, Anthony DiMatteo, also known as "Tony Apples"; Rocco Riccardi, also known as "Rocky"; Joseph Simonelli, also known as "Joe Black"; Phyllis Engert, an individual referred to as John Doe D,and others as yet unknown concerning the above-described offenses at the premises located at Apartment 309, 8-15 27th Avenue, Astoria, Queens, New York.

Order of Judge Weinstein.

Such interception shall continue until communications have been intercepted which reveal the manner in which Barry Russo; Anthony DiMatteo, also known as "Tony Apples"; Rocco Riccardi, also known as "Rocky"; Joseph Simonelli, also known as "Joe Black"; Phyllis Engert; an individual referred to as John Doe D,and others as yet unknown participate in this illegal gambling business, and which reveal the identities of their confederates, their places of operation and the nature of the conspiracy involved therein, or for a period of fifteen (15) days, except Sundays (the day on which the policy bank is not in operation), from the date of this Order, whichever is earlier.

PROVIDING THAT, this authorization to intercept oral communications shall be executed as soon as practicable after signing of this Order and shall be conducted in such a way as to minimize the interception of conversations not otherwise subject to interception under Chapter 119 of Title 18, United States Code, and must terminate upon attainment of the authorized objective, or in any event, at the end of fifteen (15) days, except Sundays (the day on which the policy bank is not in operation), from the date of this Order.

PROVIDING ALSO, that electronic surveillance of the oral communications of the above-named subjects shall occur at the above-described premises only where it has been determined that at least one of the above-named subjects is at the above-described premises.

PROVIDING ALSO, that Robert G. DelGrosso shall provide the Court with a report on the fifth and tenth days following the date of this Order showing what progress has been made toward achievement of the authorized objective and the need for continued interception.

UNITED STATES DISTRICT JUDGE

DATED 1/15/1973

2:25 PM

Application of Robert G. DelGrosso.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----------X

IN THE MATTER OF THE APPLICATION OF THE UNITED STATES FOR AN ORDER AUTHORIZING THE INTERCEPTION OF ORAL COMMUNICATIONS

APPLICATION

----------X

Robert G. DelGrosso, Special Attorney with the Department of Justice, Organized Crime and Racketeering Section, being duly sworn, states:

This sworn application is submitted in support of an Order authorizing the interception of oral communications. This application has been submitted only after lengthy discussions concerning the necessity for such an application with various officials of the Organized Crime and Racketeering Section, United States Department of Justice, Washington, D.C., together with agents of the Federal Bureau of Investigation.

1. He is an "investigative or law enforcement officer of the United States" within the meaning of Section 2510(7) of Title 18, United States Code, that he is an attorney authorized by law to prosecute or participate in the prosecution of offenses enumerated in Section 2516 of Title 18, United States Code.

2. Pursuant to the powers conferred on him by Section 2516 of Title 18, United States Code, the Attorney General of the United States, the Honorable Richard G. Kleindienst, has authorized this application for an Order authorizing the interception of oral communications. The letter of notification of approval from the Assistant Attorney General of the Criminal Division, the Honorable Henry E. Petersen and the memorandum of authorization approved by the Attorney General of the United States, the Honorable Richard G. Kleindienst are attached to this application as Exhibit A.

3. This application seeks authorization to intercept oral communications of Barry Russo, Anthony Di Matteo, also known as "Tony Apples", Rocco Riccardi, also known as "Rocky", Joseph Simonelli, also known as "Joe Black", Phyliss Engert, an individual referred to herein as John Doe D, and others as yet unknown concerning

offenses enumerated in Section 2516 of Title 18, United States Code; that is offenses involving the conducting, financing, managing supervising, directing or owning all or part of an illegal gambling business in violation of Section 1955 of Title 18, United States Code, which offenses have been and are being committed by the aforementioned persons and others as yet unknown.

Section 1955 of Title 18, United States Code, was enacted as Section 803 of Title VIII, entitled Syndicated Gambling of the "Organized Crime Control Act of 1970", Public Law 91-452, 91st Congress, October 15, 1970.

Section 801 of Title VIII of this act contains special findings that illegal gambling involves wide-spread use of and has an effect upon interstate commerce and facilities thereof.

4. He has discussed all the circumstances of the above offenses with Special Agent Charles J. Parsons of the New York Office of the Federal Bureau of Investigation, who has directed and conducted the investigation herein, and has examined the affidavit of Special Agent Charles J. Parsons (attached to this application as Exhibit B and incorporated by reference herein) which alleges the facts therein in order to show that:

a. there is probable cause to believe that Barry Russo, Anthony Di Matteo, also known as "Tony Apples", Rocco Riccardi, also known as "Rocky", Joseph Simonelli, also known as "Joe Black", Phyliss Engert, an individual referred to herein as John Doe D, and others as yet unknown are each conducting, financing, managing, supervising, directing or owning all or part of a gambling business which (1) violates Article 225 of the New York State Penal Laws, (2) involves five or more persons who conduct, finance, manage, supervise, direct or own all or part of such business, and (3) remains in substantially continuous operation for a period in excess of thirty (30) days or has a gross revenue of $2,000 in any single day; and consequently there is probable cause to believe that Barry Russo,

Application of Robert G. Delgrosso.

Anthony Di Matteo, also known as "Tony Apples", Rocco Riccardi, also known as "Rocky", Joseph Simonelli, also known as "Joe Black", Phyliss Engert, an individual referred to herein as John Joe D, and others as yet unknown are committing and are about to commit offenses in violation of Section 1955 of Title 18, United States Code and are conspiring to commit such offenses in violation of Section 371 of Title 18, United States Code:

b. there is probable cause to believe that particular oral communications of Barry Russo, Anthony Di Matteo, also known as "Tony Apples", and others yet unknown concerning these offenses will be obtained through the interception, authorization for which is herewith applied for.

In particular these oral communications are expected to concern the conduct, financing, management, supervision, direction and ownership of a wagering and betting business, the duration and continuity of the operation of this business, the number, degree of participation and identity of persons active therein, the amount of frequency of bet to and from this business, and the amount of revenue involved in this betting business, all of which is more fully set forth in the affidavit incorporated herein.

c. normal investigative procedures reasonably appear to be unlikely to succeed, if tried further, as more fully set forth in the affidavit incorporated herein.

d. there is probable cause to believe that the premises located at Apartment 309, 8-15 27th Avenue, Queens, New York, have been and are being used by Barry Russo, Anthony Di Matteo, also known as "Tony Apples", Rocco Riccardi, also known as "Rocky", Joseph Simonelli, also known as "Joe Black", Phyliss Engert, an individual referred to herein as John Doe D and others as yet unknown, in connection with the commission of the above-described offenses.

5. No previous application has been made to any judge for authorization to intercept or for approval of interception of wire or oral communications involving any of the same persons, facilities, or places specified herein, except the application to intercept oral

communications of Barry Russo, Anthony Di Matteo, also known as "Tony Appl s" (referred to prior application as Pasquale Joseph Rossetti), an individual referred to as John Doe D at Apartment 309, 8-15 27th Avenue, Astoria, Queens, New York. which order was authorized by Honorable Orrin J. Judd, United States District Judge, Eastern District of New York, on December 8, 1972.

WHEREFORE, your affiant believes that probable cause exists to believe that each are engaged in the commission of offenses involving the operation of a gambling business in violation of Article 225, New York State Revised Penal Laws, that each is conducting, financing, managing, supervising, directing or owning, all or part of an illegal gambling business in violation of Section 1955 of Title 18, United States Code, and that each is conspiring to commit said federal offenses in violation of Section 371 of Title 18, United States Code; that particular communications of Barry Russo, Anthony Di Matteo, also known as "Tony Apples" and others as yet unknown, concerning these offenses will be intercepted; that normal investigative procedures reasonable appear unlikely to succeed if tried; and that there is probable cause to believe that particular communications of Barry Russo, Anthony Di Matteo, also known as "Tony Apples" and others as yet unknown concerning the above-described offenses will be obtained through the interception of oral communications at the premises located at Apartment 309, 8-15 27th Avenue, Astoria, Queens, New York.

On the basis of the allegations contained in this application and on the basis of the affidavit of Special Agent Charles J. Parsons which is attached hereto and made a part thereof, applicant requests this Court to issue an Order pursuant to the power conferred on it by Section 2518 of Title 18, United States Code, authorizing the Federal Bureau of Investigation of the United States Department of Justice to intercept oral communications at the above-described premises until communications are intercepted which reveal the manner in which Barry Russo, Anthony Di Matteo, also known as "Tony Apples, Rocco Riccardi, also known as "Rocky", Joseph Simonetti,

Application of Robert G. Delgrosso.

also known as "Joe Black", Phyllis Engert, an individual referred to herein as John Doe D and others as yet unknown, participate in this illegal gambling business, and which reveal the identities of their confederates, their places of operation, the nature of the conspiracy involved herein, or for a period of fifteen (15) days, excluding Sundays, (the days on which the "policy bank" is not in operation), from the date of this Order, whichever is earlier.

It is further requested that the Court issue an Order pursuant to the power conferred on it by Section 2518 (4) of Title 18, United States Code, directing that the New York Telephone Company, a communication common carrier as defined in Section 2510 (10) of Title 18, United States Code, shall furnish the applicant forthwith all information, facilities and technical assistance necessary to accomplish the interception unobtrusively with a minimum of interference with the service that such carrier is according the person whose conversations are to be intercepted, the furnishing of such facilities or technical assistance by the New York Telephone Company to be compensated for by the applicant at the prevailing rates.

Robert G. Delgrosso
Special Attorney

Subscribed to and sworn to before me
this 15th day of January, 1973 2:25 PM

Jack B. Weinstein

Affidavit of Charles J. Parsons page 1-4.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

IN THE MATTER OF THE APPLICATION
OF THE UNITED STATES FOR AN ORDER AFFIDAVIT
AUTHORIZING THE INTERCEPTION OF
ORAL COMMUNICATIONS

STATE OF NEW YORK
COUNTY OF KINGS
EASTERN DISTRICT OF NEW YORK ss:

CHARLIE J. PARSONS, Special Agent, Federal Bureau of Investigation, New York, being duly sworn states:

I am an "investigative law enforcement officer..." of the United States within the meaning of Section 2510(7) of TIitle 18, United States Code--that is, an officer of the United States who is empowered by law to conduct investigations of and to make arrests for offenses enumerated in Section 2516 of Title 18, United States Code.

I make this affidavit in support of an application which seeks authorization to intercept oral communications concerning offenses involving violation of Title 18, United States Code, Section 1955, and a conspiracy to violate said statute in violation of Title 18, United States Code, Section 371, which have been and are being committe by BARRY RUSSO, ANTHONY DI MATTEO, also known as "Tony Apples", ROCCO RICCARDI, also known as "Rocky", JOSEPH SIMONELLI, also known as "Joe Black", PHYLLIS ENGERT, an individual referred to herein as JOHN DOE D , and others as yet unknown.

I have supervised the conduct of the investigation of this offense and, as a result of my personal participation in that investigation and of reports made to me by agents under my direction,

Facts Showing Probable Cause

1. On May 1, 1972, Special Agents of the Federal Bureau of Investigation (FBI), pursuant to a search warrant authorized by United States Magistrate VINCENT A. CATOGGIO, Eastern District of New York, searched the premises known as 967 East 2nd Street, Brooklyn, New York. The affiant's affidavit in support of the said warrant is incorporated herein by this reference, and a copy of it is attached hereto as Exhibit B.

2. On December 8, 1972, the Honorable ORRIN J. JUDD, United States District Judge, Eastern District of New York, authorized the interception of oral communications of BARRY RUSSO, ANTHONY DI MATTEO, also known as "Tony Apples" (referred to in prior application as PASQUALE JOSEPH ROSSETTI), an individual referred to as JOHN DOE D at Apartment 309, 8-15 27th Avenue, Astoria, Queens, New York. The affiant's affidavit in support of the application for the said interception is incorporated herein by this reference, and a copy of it is attached hereto as Exhibit C.

a. Monitoring equipment was installed pursuant to Judge ORRIN J. JUDD's order and began operating on December 9, 1972. Gambling conversations concerning the verifying of winning policy numbers, or "hits", and "overlooks", or "hits" which should have been recorded, but were not; policy banks in the same operation; Christmas bonuses referred to as "turkeys"; and references to meetings with higher echelon members of the gambling operation have been intercepted daily at the subject premises (except Sundays, December 10 and 17, 1972) until December 22, 1972. The conversations were intercepted and recorded by the affiant and agents under his direction, and those conversations which are the basis for the probable cause that the aforementioned offenses have been and are being perpetrated, are reported as follows:

1) December 9, 1972, 6:09 P.M., BARRY RUSSO telephoned "Bill", also referred to as "Howdy", and told him to tell BOBBY that "all our offices got Christmas today", and that they had "12,000

Affidavit of Charles J. Parsons.

I am familiar with all the circumstances of the offense. On the basis of that familiarity, I allege the facts contained in the numbered paragraphs below to show that:

a. There is probable cause for belief that BARRY RUSSO, ANTHONY DI MATTEO, also known as "Tony Apples", ROCCO RICCARDI, also known as "Rocky", JOSEPH SIMONELLI, also known as "Joe Black", PHYLLIS ENGERT, an individual referred to herein as JOHN DOE D, and others as yet unknown have committed, and are committing, will continue to commit and will continue to conspire to commit offenses involving the conducting, financing, managing, supervising, directing or owning of all or part of an illegal gambling business in violation of Article 225, Sections 225.0 through 225.40, of the New York State Revised Penal Law, and also in violation of Sections 1955 and 371 of Title 18, United States Code.

b. There is probable cause for belief that communications concerning these offenses will be obtained through the interception of oral communications at the premises located at Apartment 309, 8-15 27th Avenue, Astoria, Queens, New York.

c. Normal investigative procedures have been tried and reasonably appear unlikely to succeed if tried further.

No previous applications are known to have been made to any judge for authorization to intercept or for approval of interception of wire or oral communications involving any of the persons, facilities or places specified herein except the application to intercept oral communications of BARRY RUSSO, ANTHONY DI MATTEO, also known as "Tony Apples", (referred to in prior application as PASQUALE JOSEPH ROSSETTI), and an individual referred to as JOHN DOE D at Apartment 309, 8-15 27th Avenue, Astoria, Queens, New York, which order was authorized by Honorable ORRIN J. JUDD, United States District Judge, Eastern District of New York, on December 8, 1972.

something","plays","hits", and "we're going to win a few thousand". (Based upon two and one-half years experience in investigating numerous gambling operations, one and one-half years experience in the investigation of this and other operations believed to be under the control of JAMES V. NAPOLI, SR. also known as "Jimmy Napp", and consultations with other law enforcement gambling experts, the affiant believes "Christmas Eday" refers to bonuses exployees of the operation were given, and "12,000 something" "plays" indicates the volume of policy numbers' business for that day.)

2) December 9, 1972, 6:15 P.M., ANTHONY DI MATTEO, also known as "Tony Apples" told BARRY RUSSO, "Jimmy called you". (Based upon affiant's cumulative experience as described in paragraph 2a, subparagraph 1, "Jimmy" is the nickname for JAMES V. NAPOLI, SR. whom the affiant believes to be the head of the gambling operation of which the policy bank located at the above described premises is only a part.)

3) December 11, 1972, 3:12 P.M., ANTHONY DI MATTEO, also known as "Tony Apples" asked BARRY RUSSO about the "ribbons". (Based upon his experience, affiant describes "ribbons" to be the adding machine tapes which are records of the policy numbers and the amounts of money "bet" on the respective policy numbers.)

4) December 11, 1972, 5:16 P.M., BARRY RUSSO telephoned an unknown individual about trouble, which he described as an "overlook". (Based upon his experience, affiant states an "overlook" to be a winning policy number which should have been recorded, but was not.)

5) December 12, 1972, 5:58 P.M., PHYLLIS ENGERT spoke to ANTHONY DI MATTEO, also known as "Tony Apples" and BARRY RUSSO about how much they should pay her for the use of her apartment. PHYLLIS ENGERT indicated she had allowed her apartment to be used for a policy bank on a prior occasion, and that she was "getting a hundred before".

6) December 13, 1972, 2:55 P.M., ANTHONY DI MATTEO, also known as Tony Apples, and BARRY RUSSO again spoke about

UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

Address Reply to the
Division Indicated
and Refer to Initials and Number

Organized Crime Section
35 Tillary Street
Room 327-A
Brooklyn, New York 11201

January 19, 1973

The Honorable Jack B. Weinstein
United States District Judge
United States District Court
Eastern District of New York
United States Courthouse
225 Cadman Plaza East
Brooklyn, New York 11201

Reports to Judge Weinstein

Dear Judge Weinstein:

In connection with your Order of January 15, 1973 authorizing the interception of oral communications of Barry Russo, Anthony DiMatteo, a/k/a "Tony Apples", Rocco Riccardi, a/k/a "Rocky", Joseph Simonelli, a/k/a "Joe Black", Phyllis Engert, an individual referred to as John Doe D, and others as yet unknown, at Apartment 309, 8-15 27th Avenue, Astoria, Queens, New York, for a fifteen (15) day period, you will find enclosed herein the reports of John Malone, Assistant Director in Charge, Federal Bureau of Investigation, which detail the oral communications intercepted at the aforementioned premises from the date of the Order through January 18, 1973.

Sincerely yours,

Robert Del Grosso

Robert G. DelGrosso
Special Attorney

Enc.

RGD:mfm

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

In Reply, Please Refer to
File No.

201 East 69th Street
New York, New York 10021
January 16, 1973

Mr. Denis E. Dillon
Attorney in Charge
Organized Crime Strike Force
Eastern District of New York
Cadman Plaza
Brooklyn, New York

Attention: Special Attorney Fred F. Barlow

Dear Sir:

As you are aware, a court order approving interception of oral communications at Apartment 309, 8-15 27th Avenue, Astoria, Queens, was issued at 2:25 PM on January 15, 1973 by United States District Judge Jack B. Weinstein, Eastern District of New York, for a fifteen day period.

On Monday, January 15, 1973, these premises were monitored during the period when the "bank workers" utilized the apartment. Numerous conversations of a gambling nature were intercepted including a discussion of the various "branches" of the operation which each individual bank worker was responsible for on a daily basis. During the course of a very heated argument, conversations were monitored which indicated that any complaints should be taken up with "Jimmy Napoli".

Both bank workers departed at approximately 5:45 PM and at 6:07 PM, the vehicles known to be used by each were observed in front of Bamonte's Restaurant, 32 Withers Street, Brooklyn, New York. Later in the evening, Rocco Riccardi and Joseph Simonelli were observed at Bamonte's Restaurant.

Sincerely yours,

John F. Malone

JOHN F. MALONE
Assistant Director In Charge

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

In Reply, Please Refer to File No.

201 East 69th Street
New York, New York 10021
January 17, 1973

Mr. Denis E. Dillon
Attorney in Charge
Organized Crime Strike Force
Eastern District of New York
Cadman Plaza
Brooklyn, New York

Attention: Special Attorney Fred F. Barlow

Re: Court Order of Judge Weinstein dated January 15, 1973.

Dear Sir:

On January 16, 1973, Anthony Di Matteo and Bari Mascitti were present in premises which are subject of referenced court order. Both discussed various aspects of the policy operation, including the "winning number" and "ribbons".

Also present while the two bank-workers processed the gambling records was an unknown female, apparently an associate of Phyllis Engert. This female was referred to as "Collette", "Aggie" and "Miss Gooch" by Mascitti. "Collette" and "Mascitti" carried on various conversations during the afternoon. Phyllis Engert arrived later in the afternoon.

Mascitti and Di Matteo departed at approximately 3:42 PM whereupon monitoring of premises was terminated. Phyllis Engert and "Collette" remained in the apartment.

Sincerely yours,

John F. Malone

JOHN F. MALONE
Assistant Director In Charge

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

In Reply, Please Refer to File No.

201 East 69th Street
New York, New York 10021
January 18, 1973

Mr. Denis E. Dillon
Attorney in Charge
Organized Crime Strike Force
Eastern District of New York
Cadman Plaza
Brooklyn, New York

Attention: Special Attorney Fred F. Barlow

Re: Court Order of Judge Weinstein dated January 15, 1973.

Dear Sir:

On January 17, 1973, subject premises were monitored during the period from 2:59 PM to 6:03 PM while premises were utilized by Bari Mascitti and Anthony Di Matteo. Also present was an unknown female referred to as "Collette".

During this period, little conversation was intercepted with clarity because of interference of a television and a radio. Also, the presence of "Collette" seemed to stifle conversation regarding associates in the gambling operation. Conversations were intercepted regarding money owed and money being paid out and the balance of the books.

Di Matteo departed the apartment at 5:50 PM and Mascitti departed at 6:03 PM whereupon the monitoring was terminated.

Sincerely yours,

John F. Malone

JOHN F. MALONE
Assistant Director In Charge

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

In Reply, Please Refer to File No.

201 East 69th Street
New York, New York 10021
January 19, 1973

Mr. Denis E. Dillon
Attorney In Charge
Organized Crime Strike Force
Eastern District of New York
Cadman Plaza
Brooklyn, New York

Attention: Special Attorney Fred F. Barlow

Re: Court Order of Judge Weinstein dated January 15, 1973

Dear Sir:

On January 18, 1973, Anthony Di Matteo arrived at premises which are subject of referenced court order at approximately 2:50 PM. Bari Mascitti arrived at approximately 3:20 PM. Monitoring was discontinued at approximately 6:15 PM when Di Matteo departed followed shortly by Mascitti. A female referred to as "Collette" was present during the entire period.

Individuals such as "Shotgun" (believed to be Richard Bascetta), Patsy Rossetti and Joe Paladino were mentioned. Di Matteo mentioned that betting on a particular number was very heavy. "Overcharges", "Hits" and other gambling conversations were intercepted.

Mascitti departed the premises at 4:35 PM and returned at 4:50 PM, thus following his usual pattern which is to pick up the "work".

Di Matteo told Mascitti to get the number whereupon Mascitti dialed telephone number 212-894-9195 at 5:40 PM and then gave the winning New York and Brooklyn numbers for the day to Di Matteo.

Mascitti stated that "Bobby" was distressed about "overlooks". Mascitti then stated that he was going down to see "Bobby" tomorrow. It is felt that "Bobby" is identical to Robert Voulo and that Mascitti meets him each Friday to pick up a weekly pay for the bank workers On Friday, January 12, 1973, Mascitti was surveilled to 86-17 157th Avenue, Queens, New York (the residence of Voulo and Martin Griffin, Senior) at approximately 12:20 PM. Voulo was observed to depart this residence shortly thereafter.

Sincerely yours,

John F. Malone
JOHN F. MALONE
Assistant Director In Charge

35a

Memorandum

DATE: JAN 12 1973

TO : Henry E. Petersen
Assistant Attorney General
Criminal Division

FROM : The Attorney General

Authorization of Attorney General

SUBJECT: Authorization for Interception Order Application

This is with regard to your recommendation that I authorize an application to a Federal judge of competent jurisdiction for an order under Title 18, United States Code, Section 2518, authorizing the interception of oral communications for a fifteen (15) day period at Apartment 309, 8-15 27th Avenue, Astoria, Queens, New York, in connection with the investigation into possible violations of Title 18, United States Code, Sections 1955 and 371, by Barry Rusco, Anthony Di Matteo, also known as "Tony Apples", Rocco Riccardi, also known as "Rocky", Joseph Simonelli, also known as "Joe Black", Phyllis Engert, an individual referred herein to as John Doe D and others as yet unknown.

Pursuant to the power conferred on me by Section 2516 of Title 18, United States Code, I hereby authorize the above-described application to be made by any investigative or law enforcement officer of the United States as defined in Section 2510(7) of Title 18, United States Code.

RICHARD G. KLEINDIENST
Attorney General

1/12/73
DATE

Department of Justice
Washington 20530

36a

Authorization of Attorney General

JAN 12 '73

Mr. Denis E. Dillon
Attorney in Charge
Brooklyn Strike Force
Brooklyn, New York

Dear Mr. Dillon:

This is to advise you that pursuant to the power conferred on him by Section 2516 of Title 18, United States Code, the Attorney General has authorized an application to be made to a Federal judge of competent jurisdiction for an order under Section 2518 of Title 18, United States Code, authorizing the interception of oral communications for a fifteen (15) day period at Apartment 309, 8-15 27th Avenue, Astoria, Queens, New York, in connection with the investigation into possible violations of Title 18, United States Code, Sections 1955 and 371, by Barry Russo, Anthony Di Matteo, also known as "Tony Apples", Rocco Riccardi, also known as "Rocky", Joseph Simonelli, also known as "Joe Black", Phyllis Engert, an individual referred to herein as John Doe D and others as yet unknown. The memorandum of authorization approved by the Attorney General is attached hereto.

Accordingly, you or any other attorney on your staff who is an investigative or law enforcement officer of the United States within the meaning of Section 2510(7) of Title 18, United States Code, are authorized to make the above-described application.

Sincerely,

Henry E. Petersen

HENRY E. PETERSEN
Assistant Attorney General

Affidavit of Phyllis Engert

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----------X

UNITED STATES OF AMERICA, :

-against- : AFFIDAVIT

FRANK ALTESE, et al. : 75 CR 341

Defendants :

----------X

STATE OF NEW YORK)
COUNTY OF KINGS) SS:

PHYLLIS ENGERT, being duly sworn, deposes and says:

1. I am the tenant of apartment #309, 8-15 27th Avenue, Astoria, Queens, New York, wherein I reside.

2. In ~~September~~ July of, 1973, I learned that my apartment had been under electronic surveillance; that the bugging of my apartment began approximately nine months beforehand.

3. I never gave my permission for Federal Agents to enter my apartment and install any electronic surveillance equipment.

4. I never gave authorization to anyone to give permission for Federal Agents to enter my apartment and install any electronic surveillance equipment.

Phyllis C Engert
PHYLLIS ENGERT

Sworn to before me this
21 day of June, 1976.

Arthur A. Klein Jr.

ARTHUR A. KLEIN JR.
Notary Public, State of New York
No. 41-7290505 Qual. in Queens Co.
Term Expires March 30, 1978

in Apartment 309 different than that used for the Highway Lounge?

A Not really. Generally, someone would observe them going into the apartment house or the thing that -- in this case what was different is they were like clock-work. Mr. DiMatteo would arrive at a quarter of 3:00 and then ten or fifteen minutes later without almost exception, there were a couple of exceptions, Mr. Moscitti would arrive, so there wasn't much of a question as to when they were on the premises.

Q And in fact, you and agents under your direction had done physical surveillance of Mr. DiMatteo and Mr. Moscitti since September of '72, had you not?

A We started on Mr. Moscitti in September '72 and I'm not sure when Mr. DiMatteo came into it but some time in that period, yes, sir.

Q And these were varying locations changing about once a month?

A Yes. Some time more frequently.

Q But was any pattern established for the entry of either Mr. DiMatteo or Mr. Moscitti into these varying locations?

A Basically the same. As far as the time frame.

Q And during the monitoring, did their time of

entry into Apartment 309 change in any way from the times that you had noted since September, October of the prior year?

A There might have been a couple of exceptions when for some reason one of them was late. But no, that was their basic pattern throughout.

MR. BARLOW: That's all the questions I have of Mr. Parsons, your Honor.

THE COURT: Who wants to examine first here?

MR. BORSTEIN: Leon Borstein, your Honor, for Rocco Riccardi.

CROSS-EXAMINATION

BY MR. BORSTEIN:

THE COURT: You are listed first, Mr. Hannah. Would you like to examine first?

MR. HANNAH: Pardon?

THE COURT: You are listed first here.

MR. HANNAH: It makes no difference, your Honor.

THE COURT: All right.

Go ahead.

MR. HANNAH: I'll yield.

THE COURT: But I want a particular order so I know when defendants' counsel is through.

Q According to your affidavit, Mr. Mars told you that on November 20th that on November 14th he had seen Mr. Russo enter the apartment 309, on one occasion, and that further Phyllis Engert was the tenant of that apartment, a young female in her 20's who worked for some professional man.

A I remember his telling me this, I'm not sure he told me anything else. I have a 302 on Mr. Mars which will give the entire content of that.

I remember he did tell me he had seen the person at that time -- we were not referring to him as Barry Russo -- enter into the apartment.

Q So that on only one occasion, on November 14th, is that correct --

A Let me check the date.

According to my affidavit, which I will stand by, on November 20th he advised me that on November 14th he had observed a white male, husky, in his 20's, entering the apartment. Since he did not recognize him as a tenant he stopped the unknown individual and asked where he was going and he told him he was going to apartment 309 to visit his girlfriend.

Then there is some other information that Mr. Mars gave, but that was another occasion.

I pointed out John Doe C to Mr. Mars, he said

This indicates how the lawyers work here, as soon as something occurs to them they just make a motion and then they want the Judge to write on it. They expect the Judge to go back to the statute and let him worry about it.

Now, go ahead, Mr. Borstein.

BY MR. BORSTEIN:

Q So there was a 25 day hiatus between the last day of interception as it relates to 309-I and the sealing of 309-I; is that correct?

THE COURT: Yes!

A How many days?

Q I have 25 days.

A Well, the order expired on the 25th, so from the time the order expired --

THE COURT: It was about 23 days.

Now that is a mathematical computation, Mr. Borstein.

A Something like that.

Q Can you explain why you didn't go back to the Court during the week of the 24th, between Christmas and New Year's?

A Well, Mr. Barlow was unavailable, I don't --

MR. WALLACH: I am going to object to this, I

know this is co-counsel, I know it is defense counsel, but I am constrained to object.

THE COURT: Iwill allow it.

A Mr. Barlow was unavailable to go with me to have the tapes sealed at that time, and in addition we were waiting also for the extension to come up and to be approved by Washington.

Q What extension is that?

A This is for the 309-II.

Q Do you call it an extension?

A Yes, I call it an extension.

Q As I understand it, don't you normally ask for an application of extension of existing order?

A No.

Q Well, this one doesn't use the word "extension."

A No, but to my knowledge, and again Mr. Barlow is a better witness, the word "extension" isn't used in extensions, but that is something that is just my understanding.

We had hoped to have this.

Q One second before you continue --

A Yes.

Q Would you say that this is a true statement:

"It has been the policy of the Department since at least 1971 to give no extension by the use of the word

'continued'."

MR. BARLOW: I will object to that. He can't testify as to that.

THE COURT: Objection sustained.

MR. BARLOW: I will stipulate, if he wants to.

BY MR. BORSTEIN:

Q As to the policy of the Department of Justice, you don't know the policy in that regard?

A On the use of the word "continued"?

Q Yes.

A No, sir, all I know is that in speaking with each other we refer to it as an extension, and it is on the same premise that we hope to have a continuance of the Order, and since immediately upon the expiration it wasn't back yet, well, you can call that whatever you like but I refer to it as an extension.

Q Did you use that word when you asked for Highway II and Highway III?

A Yes, I used that word, I still use that at this time, I refer to Highway II and Highway IIIas extensions of HIghway I.

I'm not talking about my affidavits, I am talking about --

THE COURT: Did you draw up the papers?

THE WITNESS: Mr. Barlow and I did, he drafted

the affidavit but it was a joint effort.

THE COURT: Who drew the order?

THE WITNESS: Mr. Barlow drew the order.

MR. BORSTEIN: Your Honor, could I ask for a stipulation as to that?

I just read from Mr. Barlow's affidavit that since 1971 it has been the policy of the Department of Justice not to use the word "continued" when they mean extension, and that 309-II and 309-III do not contain the word "continued", however, Highway II and Highway III --

MR. BARLOW: Your Honor, I will stipulate to that and if the Court wants I will proffer --

THE COURT: No, let us get through with the testimony and let us get this hearing over. I'm desperately trying to make all my decisions this afternoon and I think I have a 3:00 o'clock hearing.

THE CLERK OF THE COURT: A trial, your Honor.

MR. BARLOW: I have another five minutes, your Honor.

THE COURT: There is no sense going over matters in evidence like affidavits and the use of words.

BY MR. BORSTEIN:

Q Where was Mr. Barlow during the period you said that you could not get in contact with him, that is from

December 25th through December 31, 1972?

A I am not sure, he was involved in a trial during one of these interludes, he was out in Westbury, I think some trial out there.

MR. WALLACH: Your Honor, I will object to this as irrelevant to the issue of sealing.

THE COURT: I have read Giganti, I am not going to decide this on an oversight.

I will invite the Government to explain it, so don't worry about it.

MR. WALLACH: I was constrained to object, your Honor.

BY MR. BORSTEIN:

Q What about between January 1st and January 16th when it was sealed?

A He was involved in some trial matter, as a matter of fact this ended up by going to Mr. DelGrasso to get the 309-II, and I am talking on the extension being signed because Mr. Barlow was not available on it. I cannot remember exactly but he can be the best witness of that. But he told me to bring it with me when we got the extension, the extension took much longer than we thought and also he was just unavailable during this period for some reason which you will have to ask him and which I don't know, whether there was a

trial on or --

Q 309-II, was that ever sealed?

A Yes.

Q Was that sealed twice?

A Not as far as I know.

Now after I left New York all the tapes I think were opened at the request of defense counsel so some could make copies, that is if that is what you are talking about, but during my involvement with them we had them sealed, and on February 5th is what I have on a piece of paper and I never had them opened again.

Q How about 309-III, was that sealed twice?

A Not to my knowledge, no, sir, unless again it was opened for defense counsel and resealed.

MR. BORSTEIN: I would ask Mr. Barlow if it is correct that they were sealed twice and to inform myself and the Court, as I have some indication that the 309-III was sealed twice, your Honor.

MR. BARLOW: Your Honor, I can explain that, Mr. Borstein wasn't here yesterday. Of course first of all his client wasn't overhead on 309-III, but what happened is that Judge Rosling sealed the tapes by his order on March 16, 1973 -- I believe you are referring to a May 24th --

THE COURT: What do you call 309-III? Is that Judge Rosling's order?

MR. BARLOW: Yes, that is Judge Rosling's order, yes, sir.

Mr. Borstein is referring to the May 20th, an order reflecting -- well, it is the order of 2/20/73, sealed May 24, '73. The reason for that, and I will be taking the stand anyway on the sealing --

MR. BORSTEIN: Okay.

MR. BARLOW: Okay?

MR. BORSTEIN: If Mr. Barlow is taking the stand then I will withdraw the question.

So I will withdraw the question.

fols.

(Continued on next page)

MR. BORSTEIN: Your Honor, I would like to come back only if I have additional questions after I review this morning the logs of additional observations --

THE COURT: Come back at any time. As long as I am here I will listen to you.

MR. BORSTEIN: Thank you.

THE COURT: Who is the next lawyer?

MR. HANNAH: I am.

CROSS-EXAMINATION

BY MR. HANNAH:

Q Mr. Parsons, when were you placed in charge of this examination?

A In March 1971.

Q And what United States Attorney was working with you when you started?

A There was no United States Attorney. Special Attorney Max Pollack of the Strike Force was working with me initially.

Q And when did Mr. Barlow come into the picture?

A We had a trial involving --

Q Just give me dates.

A I can't give you a date. I was giving you an event.

Q I do not want an event. What I want are dates.

MR. BARLOW: I'm going to object, your Honor, if he doesn't remember the date he can state --

MR. HANNAH: Let him say so.

THE COURT: Yes, I will allow a witness to testify that he can fix a time with reference to events rather than dates. I never insist on dates.

Do you know where you were on November 14, 1973?

MR. HANNAH: No.

THE COURT: I know where Mr. Russo was.

MR. HANNAH: Yes, I think I probably do.

THE COURT: You do?

MR. HANNAH: Yes. I think I was probably sitting on the bench over in the Family Court.

THE COURT: Do you know what you were doing at the time?

MR. HANNAH: Hearing cases.

THE COURT: Which one?

MR. HANNAH: That I can't tell you.

THE COURT: Well, that is what you are asking this witness to do.

MR. HANNAH: I do not think that is the way --

THE COURT: You remember an event. You remember a particular case. You remember when you slipped on a banana peel or something else happened to you. But

dates are unimportant in most instances.

Q Now, when you started in 1971, did you go over the previous investigation -- did you read it over -- that had been made?

A Some of it, yes.

Q And do you remember reading the name of Rosetti?

A Yes.

Q Was that in 1970?

A When I read it?

Q No, that he was --

MR. HANNAH: I will withdraw the question.

Q When was he first observed, Rosetti?

A There were three Rosettis, all brothers, and they were arrested by the FBI back in, I don't know, 1961.

Q Well, let's get down to --

THE COURT: Excuse me for one moment. I'm trying to read this affidavit while the testimony is going on.

MR. HANNAH: Yes, your Honor. Do you want me to suspend?

THE COURT: No, but maybe Mr. Barlow can cite me to it. Where did the affidavit say someone -- somebody who was said to be part of the gambling syndicate, enter the apartment at 309?

MR. BARLOW: Well, Mr. Borstein may have it

records whether or not any investigation was made of Joseph Rosetti after that particular date?

A Joseph Rosetti?

Q Yes.

A Who is Joseph Rosetti?

Q Pasquale Joseph Rosetti.

A Oh, Pat Rosetti.

Q It is James or Pasquale Rosetti, the one that I just referred to, February 14th, 1970?

A You said Joseph. I don't know. You are referring to Pat, Carmine or --

Q No, I'm referring to --

A There are a lot of Rosettis.

Q Well I read the name a couple of times. Iwill read it again. It is James or Pasquale Rosetti.

A Well, I think those are two different people. James R. as in Robert?

Q Or, O-R (spelling)?

A I think those are two different people to my knowledge.

Q All right. Now, was there any description given of him at that time so far as you remember as to age, height, weight?

A I'm sure it is available in our files, probably

a photograph. But I can't remember that offhand, no, sir.

Q Is that material available?

A On Rosetti?

Q Yes.

A Well, I don't know --

Q Particularly the photograph.

A Itis available to me, yes, sir.

MR. HANNAH: Mr. Barlow, will you produce it?

MR. BARLOW: If we have it in the FBI office, your Honor, we will give it to you tomorrow.

I do not think we have any old photographs though. I know Mr. Vigorito's photographs were a part of 500 approximately that were taken back in 1969 and 1970. Those were destroyed last year since they fall outside the conspiracy and they weren't to be used as evidence. I would date say that '70 photographs of Mr. Rosetti would probably fall within that category.

THE COURT: Well, the question is --

MR. BARLOW: We do have arrest photographs.

THE WITNESS: That is what I was referring to. I know he was arrested back in the 60's. I'm sure we have a photograph somewhere taken of when that arrest was in '60.

THE COURT: Were you aware that it was Mr. Rosetti

when you saw him? Were you aware of him to take a photograph?

THE WITNESS: I don't remember seeing Mr. Rosetti. I'm not sure what all this has to do with anything.

MR. BARLOW: Your Honor, before we bring everything from the 6th floor of the FBI, can I get a proffer from Mr. Hannah as to what he's going to use a 1961 mug shot for?

THE COURT: I thought this went to whether -- when the order was submitted, whether his client was identified, is that right?

MR. BARLOW: No, sir, that is not the issue.

MR. HANNAH: Yes, it is.

THE COURT: His client was called Russo at the time, is that right?

MR. BARLOW: The issue is, your Honor --

THE COURT: Is that right?

MR. ASEN: Rosetti.

MR. BARLOW: Rosetti in the affidavit.

THE COURT: And his true name was --

MR. ASEN: DiMatteo.

THE COURT: I am sorry, Mr. DiMatteo.

MR. BARLOW: The issue is what evidence the FBI had at that time that the person that they called

Rosetti was actually DiMatteo. And I would say, sir, I object to things that are two or three years before the time.

THE COURT: I will let Mr. Hannah make a record. I heard this argument before. Mr. DiMatteo apparently was in Mr. Rosetti's car and the FBI named him as Mr. Rosetti. It was good faith there. They didn't know it was Mr. DiMatteo. That is about it. But you can make a record. Go ahead.

MR. HANNAH: All right.

Q Now, when was your next contact with the man that you called Rosetti?

A The next contact from when?

Q In 1972.

A What contact?

Q Well, you saw -- he was observed, wasn't he, on October 27, 1972 at 3733 76th Street?

MR. BARLOW: Objection, your Honor. That assumes a fact not in evidence. I believe it referred to an individual believed to be.

THE COURT: Well, just in the affidavit --

THE WITNESS: Excuse me --

THE COURT: -- I recognize that there was a mistaken identity here. The individual was Mr. DiMatteo --

MR. BARLOW: There's no doubt of that, your Honor.

THE COURT: And he was identified as Mr. Rosetti. That is clear. I will make a finding. I say it is immaterial.

MR. HANNAH: Well, I have to disagree with your Honor. And I would like to make a record on it. I will make it as short as possible.

THE COURT: It is also conceded that the FBI had a photograph, a mug shot of Mr. DiMatteo. And if someone went to all the records of the FBI, or pressed the right button, it might have been discovered very early at that time.

MR. BARLOW: No, your Honor, they had an arrest photograph of Mr. Rosetti, but I do not believe they had one of Mr. DiMatteo.

THE COURT: Mr. Rosetti. That is right. I am sorry. He was the one who had the record, because Mr. Hannah insisted that his client was free of all accusations and taint of any kind of a criminal nature. And that some libel or slander was committed against his client.

MR. HANNAH: No, I didn't --

THE COURT: Oh, I thought that was your attitude.

MR. HANNAH: No, I didn't go that far.

THE COURT: How dare you say Mr. DiMatteo had a record --

MR. HANNAH: All right, your Honor.

Q Now, on October 27, 1972 -- have you read the affidavit, incidentally?

A Yes, sir, I have.

Q Now, you say a person believed to be Rosetti in that affidavit?

A Yes, an unknown white male believed to be Pasquale Joseph Rosetti, yes, sir.

Q Now, at that time were any pictures taken of him?

A No, sir, I don't believe so. I am sure there weren't.

Q Well, did the agent give a description of him?

A Yes.

Q And do you know what that description was?

A Not offhand. But it fit the description that we had of Pat Rosetti.

Your client looks a lot like Mr. Rosetti, is what I am trying to say.

Q Well, I disagree with you on that.

A Well, all right.

Q Well, what does Rosetti look like?

THE COURT: Like DiMatteo, he says.

MR. HANNAH: Judge, that doesn't mean anything.

THE COURT: We are getting noplace. We are just getting no place.

MR. HANNAH: Well, your Honor --

THE COURT: The confession is made. You can't get any better than that.

MR. HANNAH: All right. I'm going to run right down through it.

Q October 30th, did you see this person you believed to be Rosetti?

A We may have, yes, sir. It is not reflected in the affidavit. It could be in the surveillance log.

Q Your affidavit says merely that Rosetti's car was parked right in the vicinity of 3733 76th Street?

A A car that was registered to Rosetti, yes, sir.

Q Now, October 31st, you say a car was parked registered in Rosetti's name, and that a man believed to be Rosetti exited from 3733 76th Street? Right?

A That is correct.

Q Were any pictures taken of him that day?

A No, sir.

THE COURT: I think the witness said they never

took a picture of Mr. Rosetti. Is that right?

Q Is that right?

A It is possible that somewhere --

THE COURT: As far you know.

THE WITNESS: As far as I know, no, sir.

THE COURT: That's the answer.

Q Were any pictures taken at all during the fall of 1972 of this person you believe to be Rosetti?

A I don't believe so, no, sir. I don't think so.

Q Now, the automobile that he was driving, was it ever followed from the 3733 76th Street address after he left?

A Yes. I don't know for how far, whether it was two blocks or for half a mile. At this point we were trying not to heat up the case. And he possibly wasn't followed too far.

Q Well, do you know whether -- is this in the agent's report?

A It is in the surveillance logs, yes, sir.

(Continued on next page)

jk
AM R2

Q Does it tell where the surveillance stopped?

A Yes, it would.

Q Are those reports available?

A In Mr. Barlow's office, sir.

MR. HANNAH: Do you have them?

MR. BARLOW: I think Mr. Hannah will be second in line after Mr. Adler and Mr. Borstein.

MR. HANNAH: All right. I will take my place in line.

Q Now, as far as your surveillance goes at 37-33 76th St., other than entering a building, do you know where the person you refer to as Rosetti went when he went in the building?

Did the agent see him go into any particular apartment?

A At which location now? 76th St.?

Q 37-33 76th St.

A I don't believe so. I think there was a problem. We were trying to determine which apartment. I don't believe we saw him go into the apartment, no, sir.

Q So when he entered the building you don't know where he went to, right, after he got into the building?

A I have a good indication later --

Q No, I want to know do you know?

A Of my own personal knowledge did I see him enter?

Q Yes.

A No, sir.

Q Do any of the agents' report show where he went when he went to the building?

A Yes, but not from their own observation.

Q All right. And was this -- did you have agents inside that building on the particular dates October 27th, October 30th, 31st, November 1, 9, 15, 16, 17 and 20?

A Possibly on one of those dates, but I don't think so.

Q So, now, at any time, Mr. Parsons, other than following this man that you thought was Rosetti for a couple of blocks, did you ever follow him to find out where he parked the car when he left, where he went?

A He was followed when he left. Now, as to how far and where he ended up we would have to go to the surveillance logs, sir --

Q All right --

A -- I don't remember.

Q -- now, did you ever follow him on the way to the apartment or did you just pick him up at the apartment?

A I think he was followed on the way to the apartment. Where he was picked up, I don't know. But before

he arrived at the apartment, yes, sir.

Q And do you know where they picked him up?

A No, I don't. It could have been in the area. It could have been in Williamsburg parked at a fire hydrant, I don't know, sir. But I remember there were instances where he was followed into the area of the apartment.

Q Now, did you ever compare the pictures that you had of Rosetti with Di Matteo?

A Yes, sir. The first thing we did --

Q Just yes or no.

A Yes.

Q When?

A The first day that that car was observed.

Q At what location? 76th St.?

A I think that was the first time that car was observed, yes.

Q Now, can you tell me, if you remember, whether different reports show where they picked Di Matteo up?

A I have already answered it, no, sir, I don't remember. It was outside the area of 37-33.

Q And, now, did you ever speak to Rosetti?

A I don't think I have to this day, no, sir.

Q Did any of the agents working under you ever speak to Rosetti?

A It is possible, but not to my knowledge.

Q Did they ever report, speaking to Rosetti, to ask him where his car was?

A It is possible. I don't remember anybody.

Q Did you ever speak to Di Matteo, the person that you now refer to as Di Matteo?

A I have spoken to him, yes, sir.

Q Did you ever speak to him during October, November and December 1972?

A No, sir.

Q Now, in one of your affidavits you said that Di Matteo was unemployed; do you remember that?

MR. BARLOW: Could we have the reference, Mr. Hannah? If you give us a reference we will stipulate to it, sir.

MR. HANNAH: I will find it and give it to you.

Q Mr. Parsons, were there -- was any beeper placed on this car registered in the name of Rosetti?

A No, sir, not by the FBI.

Q To your knowledge, was any beeper placed on the car by any other law-enforcement?

A Not to my knowledge, no, sir.

Q Now, as far as your appearance -- your description of Rosetti and DiMatteo's appearance, how about

as to height?

A What do you mean my description?

Q Well, would you describe what Rosetti looked like as to height?

A (No response.)

Q First, have you ever seen Rosetti?

A I am not sure that I have. I know that we had a mug shot of him.

Q But that is all?

A That is all that I can remember.

Q Now, when -- who prepared the material that had been sent to the Attorney General?

A Mr. Barlow and myself.

MR. HANNAH: Now, I asked your Honor the last time that that material be made available to me so that I could see whether or not DiMatteo's name was mentioned in that material. And I renew my request at this time.

MR. BARLOW: And we still refuse to turn it over, your Honor. I think Mr. Hannah is talking about an internal memorandum that we sent down to Washington.

THE COURT: Yes. And I asked you to turn that over. I do not see any prejudice to the Government of an ongoing investigation or in saying whether or not you

had mentioned Di Matteo's name in seeking the authorization. What's the difference?

MR. BARLOW: I will ask them again over the lunch hour, your Honor. But right now all I can say is that my instructions are that I can't turn it over.

THE COURT: There are some very silly rules that the Department promulgates. I want to complete the record so that if Mr. DiMatteo is convicted it won't be for that reason. I do not see how the Government can be harmed.

MR. BARLOW: I do not disagree with that, your Honor.

THE COURT: Mr. Barlow will do the best he can. Frankly, I do not see the importance of it. However, I want to complete the record. I want to be satisfied that you have made all the challenges to this order based on the mis-identification that you possibly can make because I do not think there is anything to that.

MR. HANNAH: Well, I want to pursue it, Judge.

THE COURT: I wouldn't care whether he was a tall fellow and that the other fellow was short, if there was absolutely a clear case of mis-identification here. It is the good faith. They saw a man. They

saw the registration. They understood him to be Rosetti. They watched him. He was in the ring. There was no question about it. And they continued to watch him. And whether he was transported down to this apartment. That is my interest at the present time, to see whether there is probable cause to sustain that affidavit. And it is like indicting someone and finding out that he is this man but they call him by the wrong name. All of the witnesses know that that is the man sitting there. But if they called him John Brown instead of John Smith, he is the fellow that committed the crime. It is not the name. A man commits the crime.

MR. HANNAH: Yes, but we are dealing here with something different, if your Honor pleases. We are dealing with a wiretap which is a very personal thing.

THE COURT: Yes, I know.

MR. HANNAH: And one which the courts andwhich Congress has guarded very carefully. And if there is any doubt, as I pointed out in my memorandum, it should be decided in favor of the defendant and not in favor of the Government.

I think I cited the case -- I know I cited the case in my memorandum to that effect.

(continued next page)

GR/ffe
4am/1

THE COURT: I just found this case this morning, and you might read it, too, the United States against Kilgor, 524 F. 2nd, 957, 5th Circuit, 1975. "Failure to identify a person other than the target of the investigation even though the Government knew individuals' conversations would likely be seized does not require suppression in view of the fact that the Government attorney believed in good faith that such identification was not statuatorily required."

So when you get through, I will be very eager to find out anything that you have uncovered here matters, really.

MR. HANNAH: Well --

THE COURT: I think in view of Gigante, that we ought to reread what Judge Friendly said in United States against Burke, and even though it was a search and seizure question, that's the analogy.

In United States against Dunnings 425, F.2nd, 836, at 840 2nd Circuit, 1969, "We characterize the exclusionary rule as a blunt instrument. For that reason, Court should be wary in extending the exclusionary rule in search and seizure cases to violations which are not of Constitutional magnitude."

I know it is a difference. I know it is a

search and seizure we are talking about and this is statuatory -- these are statuatory provisions, but I said in the Saccone case I think when I wrote that there is nothing in the statute that says that at every step of the way where there is a misstep by the Government that the case should be suppressed.

There are specific grounds that require suppression. No others are mentioned. That's why I'm a little surprised by Gigante. I hope the Government takes it up. I am bound by it, but I don'tthink it is good law.

Go ahead. Now continue. You know my feeling on the matter.

MR. HANNAH: All right, your Honor.

CROSS-EXAMINATION

BY MR. HANNAH: (continues)

Q Now, Mr. Parsons, so far as you can recollect, in your request to the Attorney General, did you mention the name of Anthony DiMatteo?

MR. BARLOW: Objection. Just --

THE COURT: Excuse me?

MR. BARLOW: He didn't apply to the Department.

THE COURT: What was that question?

(Record read.)

3

THE COURT: In your discussions with Mr. Barlow, in the applications to the Attorney General for authorization to tap, was the name of DiMatteo ever mentioned?

THE WITNESS: Just in the second. In the December 8th one we didn't know who Anthony DiMatteo was and we put it, an individual believed to be Pasquale Joseph Rosetti.

THE COURT: All right.

Q All right.

A It's not anywhere. We would have put it in if we knew who it was.

THE COURT: Did you ever hear the name DiMatteo mentioned in reference to this?

THE WITNESS: No, sir. We weren't that strong on the identification. That's why we put --

Q When you put it in, what material did you submit to the Attorney General? Was it in the form of an affidavit?

A This is what -- the only thing that I submitted, and I submitted this to Mr. Barlow. This affidavit, and I put an individual believed to be Pasquale Joseph Rosetti. That's what I did.

Q All right. Now look at those papers. Weren't

they executed on December 8?

A The Court order was signed on December 8.

Q When was your affidavit signed?

A The same day.

Q All right. Then the material sent to the Attorney General was not sworn to; is that right?

MR. BARLOW: We'll stipulate, your Honor. It wasn't.

MR. HANNAH: Fine, I want to get a record. That's all.

Q All right. Now Mr. Parsons, the authorization of the Attorney General --

THE COURT: I will listen to you, Mr. Asen, if you want me to.

MR. ASEN: I apologize, your Honor, I was just responding to a question of --

THE COURT: I wish you would talk mouth to ear. I have heard you all morning.

MR. ASEN: Iapologize.

THE COURT: If you have reason to converse with counsel, get together with him.

MR. ASEN: I agree, and if your Honor had mentioned that earlier, I would not have cross-talked that way. Ididn't realize my voice carried.

THE COURT: Yes, it does.

MR. ASEN: I apologize.

BY MR. HANNAH:

Q Now, in your request to the Attorney General or in the request to the Attorney General dated December 7, 1972, is the name of either DiMatteo or Rosetti mentioned?

MR. BARLOW: Your Honor, we'll so stipulate.

THE COURT: All right. There you have a stipulation.

MR. HANNAH: I'd like to offer -- have this marked, your Honor.

MR. BARLOW: Your HOnor, for the purposes of the record, it's already been marked and it would be part of Government's 1.

THE COURT: Part of the moving papers.

MR. BARLOW: Certainly.

MR. HANNAH: All right.

MR. BARLOW: It's already been marked as an exhibit for identification.

THE COURT: By "moving papers" I mean part of the affidavit in support of the order.

MR. BARLOW: Actually it would be more precise, your Honor, that would be part of the application.

MR. HANNAH: What's your answer? No?

where the Government also entered the apartment surreptitiously?

MR. BARLOW: Yes, sir, it is.

THE COURT: It is?

MR. BARLOW: Yes, sir.

THE COURT: How did you gain entrance?

MR. BARLOW: That was also through a passkey. I believe Agent Parsons or I made a reprerentation yesterday, for both places, Apartment 309 and the Highway Lounge. Entry was made by use of a passkey. Apartment 309 --

THE COURT: Who supplied the passkey, the superintendent?

THE WITNESS: The super, Mr. Mars. As your Honor -- I think the records should reflect that I have filed papers on that point pertaining to Apartment 309. I didn't feel that it was pertinent to this particular hearing since your Honor wanted only minimization and sealing.

THE COURT: I'm going to pass on it.

MR. ASEN: That is an issue.

THE COURT: The right of entry of these cases. I can tell you right now that in my opinion, the order authorizing the oral interceptions authorizes

Q Do you know of your own knowledge, whether any of those agents verified in one form or another the information that Mr. Mars gave to you on November 20th? Do you have any reports on that and if so, would they refresh your recollection?

A No. I'm trying to think of verified. No one saw them go into the building. Into the apartment.

Q In other words, no federal agents saw either Mr. DiMatteo or Mr. Moscitti enter Apartment 309? You know that?

A Actually enter the apartment.

Q Right.

A But I was in the apartment. Not the apartment. The building, with Mr. Mars on one occasion and that's set forth in the affidavit. When he actually put them into the apartment.

Q What do you mean, when Mr. Mars put --

A Physically -- when I say put, that's lingo for he saw them enter Apartment 309.

Q Well, did he tell you where he was when he saw them enter Apartment 309 and did he see both enter together or at different occasions, do you recall the nature of that conversation?

MR. BORSTEIN: Excuse me, your Honor. Was

Q Not you personally, all right. Any other agent under your direction?

A No.

Q Did you have any other conversations with Mr. Mars subsequent to November 20, 1972?

A I don't know if I personally did. I know at least that Agent Mitchell did. I may have because we utilized him to get a key, to make entry on the apartment.

Q When did you ask him to do that?

A Pardon?

Q When did you utilize him to get a key?

A I'm not sure. Agent Mitchell did that. It was around December 8th. When we made an installation. In that period. I don't know the exact date.

Q Now, for the majority of the time that the electronic surveillance was being conducted at that apartment, would you say that you were physically present at the plant itself? Or at the location?

A No.

Q Of where the tape recording and receiving machinery was?

A No. I was in the general area most of the time. I was in the plant part of that time.

Q Were you conducting microphone surveillance

or visible surveillance?

A I was conducting visual surveillance and then I was going into the plant to supervise the monitoring, the electronic surveillance.

Q Generally how many individuals or how many agents would have been present at the plant?

A Two.

Q Okay. And there was, I take it, one receiver and one tape recorder in that plant?

A Two receivers and two tape recorders.

Q Per -- there were two bugs in Apartment 309?

A Yes.

Q But there was one per bug?

A That's right.

Q Right. You weren't simultaneously duplicating the reception?

A No, that's right.

Q Now, you say there would have been two agents present at all times?

A Yes.

Q In the bug. Did the location of the plant ever move during the course of the two month period of the tap or of the oral surveillance?

A No.

Q Did you make any specific instructions or directions to your agents pertaining to the actual listening of conversations that would not have been in your estimation pertinent to the authorization?

A Yes, I did. During the memo that you saw a moment ago.

Q Okay. Do you know what procedure -- withdrawn.

How many agents actually participated in the listening and using the turning on and off the tape recorder, throughout the course of the tap or throughout the course of the surveillance of Apartment 309?

A There were two per day and they changed. Over the entire 30 days of monitoring, ten different agents, twelve different agents. They worked on a schedule. The schedule is also part of that -- of the memo.

Q Now, for example, if an agent or -- withdrawn.

Did you have occasion during the course of the actual surveillance to run into circumstances where one of the agents would hear a conversation which was not pertinent to the actual authorization? Do you recall if that ever occurred and brought it to your attention?

A Yes, I can remember a couple. I can't remember -- when we say conversation, I remember it was a microphone.

Q Right.

A I can't remember any that didn't immediately change back to gambling, though, they were all so interrelated in this particular installation. Three hours --

Q Let me ask you this. Did you have occasion to spend any time listening in on the -- any of the conversations occurring at Apartment 309? You personally?

A Yes.

Q Okay. Now, you know for a fact, sir, do you not, that there was a bug installed in the befroom of Apartment 309?

A I'm not sure. I didn't make the installation.

Q Well, --

A There was -- one of them turned out to be unproductive or it may have been the bedroom. I'm not sure. But the area that we were --

(Continued on next page.)

Q And you also --

A The transcripts that you see were all from the livingroom and I think, I don't know, if the other mike did anything --

Q I have also seen transcripts that indicate barely -- and that is why I am asking you whether or not it is not a fact that there was one in the bedroom and one in the livingroom?

A Yes.

Q Have you ever been inside apartment 309 personally at any time?

A No, sir, I never have to this day.

Q You knew that there was a bedroom and a livingroom in 309?

A I was told that.

Q And were you told in conjunction with that there was a bug placed both in that livingroom and in the bedroom?

A Yes.

Q Now, did you believe that there would be conversations occurring in the bedroom pertaining to gambling operations which were the target of your authorization?

A I didn't know that, that is why we put in two.

Q Let me ask you something:

Did you have any input in the decision making as to where the bugs were to be placed?

A Some.

Q Who actually made that decision?

A The person who made the installation.

Q Now, you knew you were bugging a private apartment, is that correct?

A That is correct.

Q A private residence, so to speak, as distinguished from the Highway Lounge, which you would agree is not a private residence?

A That is correct.

Q And you knew that you were bugging a bedroom in an apartment as well; isn't that right?

A That is correct.

Q Did anybody in the course of the conversations pertaining to where the bug should be placed feel, if you recall, that a bug had no place in the bedroom of a private apartment in relation to a gambling place?

A No.

If I can explain that --

Q Just yes or no.

Do you recall if there was any conversation with anyone, Mr. Barlow, yourself, DelGrasso, Mr. Kleindienst in Washington or anybody else as to whether anyone questions why a bug would be placed in a bedroom if the purpose of the

authorization was to listen to gambling?

A We discussed it, yes.

Q Okay.

Now, thereafter there came a time during monitoring of 309-I or 309-II when either you yourself or you caused another agent to go back into apartment 309 and readjust any of the bugs, rejuvenate them or change the location of them at any time?

A I'm trying to remember that, we were having problems with one, but there was no rejuvenation, no batteries in them, that is why we needed the telephone company --

Q I will get to that in a moment.

A I don't know if one was moved or what, there may have been another entry after the initial one, then there was one at the end to move the microphone so possibly three -- two or three -- I would have to check with the person who did that.

Q Okay.

When did you come to the conclusion as supervisor that the bedroom bug was unproductive?

A Almost immediately, and by unproductive I think there was a lot of electronic problems with it, it is not --

Q Not only was it unproductive, as you say, but there was static interference and you weren't getting

they blurted out words constantly, they would say, "Three hours today." They were doing this constantly, they were blurting out, talking about this and that and the other, words like, "Look at that cat," well, you can turn it off but --

Q May I ask you something, Mr. Parsons --

A Yes.

Q If you knew they were there for the purpose of running a numbers bank, did you ever have occasion to go to any of the judges that you went to to get a search warrant?

A Did we ever have occasion --

Q Yes, to conduct a raid at apartment 309 and seize the tabs and the adding machine ribbons --

A No, we didn't.

Q (Continuing) -- and all of the paraphernalia associated with gambling?

A No.

Q You never did that, did you?

A We never did, no, we didn't.

MR. ASEN: I have no further questions.

THE COURT: Does anyone else have anything further?

Mr. Barlow?

MR. BARLOW: Yes, your Honor, I have about three

With the Court's permission, could I take these papers (indicating)? I think it might help my examination along if Ihave them to refer to.

F R E D F . B A R L O W , called as a witness on behalf of the Government, having been duly sworn by the Clerk of the Court, testified as follows:

THE COURT: Mr. Barlow, before you begin testifying, I am reading from Judge Judd's order postponing service. He uses the same language as Judge Neaher did and it says:

"Ordered that service of the inventory be postponed until June 22, 1973."

THE WITNESS: Yes.

THE COURT: Not that the tape orders the deemed to have been terminated on June 22nd.

THE WITNESS: No, sir, no, sir.

THE COURT: Why, why do you think that you had ninety days after June 22nd?

THE WITNESS: I didn't, your Honor, but -- and your Honor may have forgotten it, I think I told you -- this is not testifying -- but there was that one order postponing service as to Apt. 309 and as to Howard Beach only until June 22, 1973 and I never applied for a further postponement of the inventory,

tion with the electronic surveillances which are now before the Court in this case?

A Yes, I did. But that requires just a little explanation.

MR. WALLACH: I object to the explanation.

THE COURT: I will allow it.

THE WITNESS: For the first order of Judge Judd, I was on trial before Judge Travia in Westbury. So that Mr. Del Grasso was the supervising attorney during the tenancy of most of that order until I got back from trial. I believe it was December 15, 1972. Then Mr. Del Grasso was the applicant for the January 15, 1973 order by Judge Weinstein because I expected to be on trial before Judge Neaher. However, thattrial date went over and I actually was the supervising attorney during that order, even though I was the applicant. With those two exceptions, I was the -- I was the draftsman with Mr. Parsons of all of the papers for the six orders. And I was the supervising attorney an dapplicant for all the electronic surveillance orders. too.

Q With respect to the three orders that we have been referring to at 3091, 3092, 3093, did you have direct responsibility for supervising those orders?

MR. WALLACH: Objection.

THE COURT: I will allow it. I know it's a conclusion of law, but I will allow it.

THE WITNESS: As I said, with the exception of the time between December 8th and 15th, 1972, when I was in Westbury, I was the supervising attorney for the electronic surveillance.

Q Supervising attorney is a term of art. What do you mean by supervising attorney?

A By supervising attorney, that meant that I along with the case agent drafted the relevant papers to obtain the orders from the issuing judge, discussed monitoring procedures, minimization provisions, in the course of monitoring during the dependency of the orders, and was responsible for the progress reports and sealing of the tapes and the serving of inventories for all the orders.

Q How frequently were you in contact with the agents concerning the procedures that were employed in obtaining authorization for these particular orders and the actual carrying out of the mandates of the Court after the orders were signed.

A In obtaining the authorizations for the orders, I would estimate that Mr. Parsons and I spent about three -- possibly four days and evenings drafting the various papers for Judge Judd's order. Slightly less time -- probably a day

and a half or two days for Judge Weinstein and Judge Rosling's orders. And most of that time was spent in our office going over the facts, gathering probable cause, deciding which gentleman we thought we have probable cause to believe were both engaged in the crime and would be overheard.

Then on several occasions during all of the electronic surveillances, I actually flew down to Washington and took the drafted papers to the Department for the reviewing process. During the time that I was in the office -- I am excluding the Westbury trial -- I would estimate that there was scarcely a day went by when I didn't have some communicationwith Mr. Parsons or one of the other agents, either monitoring or surveilling, about some aspect of the monitoring -- monitoring procedures, what evidence they had overheard or a problem developed.

Q With respect to the issue of minimization, did you ever have occasion to give instructions to Mr. Parsons or any one else concerning what procedures were to be employed by the agents who actually conducted the surveillance?

A Yes, I did.

Q What were those instructions?

A The instructions -- I don't know whether you can characterize them as instructions. Mr. Parsons is also an attorney. And he and I discussed at great length what we

expected the conversations to include, what problems we expected to arise in terms of minimization, and how to deal with those problems.

With more specificity, I can remember telling him concerning apartment 309 -- first of all, I wanted to make sure from him that the F.B.I. agents would have some means of knowing that one of the named subjects were going to be in the premises before monitoring would commence. And in going over the facts of the affidavits with him, I knew from those facts that it could be expected that Mr. Moscitti, who at that time we only knew as Mr. Russo, and Mr. Matteo, whom we knew only as Mr. Rizetti at that time, would be in the apartment some time between 2:30 and 3 o'clock every afternoon and leave about 5. I can remember discussing with him the possibility of overhearing the lessee of the apartment, Miss Engert -- although before the order was signed he had told me thatshe was a nurse and her hours were approximately 9 to 5 every day. So that I didn't think that there was going to be that much likelihood that she would be overheard, much less being overheard in gambling conversation.

However, through the -- throughout the electronic surveillance I told him that where some one new began to converse with one of the named subjects, that the agent should listen long enough to determine whether the new subject or the new person

overheard was talking either about something concerning gambling, or from the context of the conversation would have been talking while overhearing the subjects talking about something illegal. Or finally, if they determined that the conversation was innocent, then, of course, that they should turn off the machine and cease to monitor. And then, of course, knowing that the only way they could determine whether the nature of the conversation had changed was to listen again, I told Mr. Parsons and we by telling -- I mean we actually discussed together sought of arrived at a concensus of opinion between ourselves that the agents should from time to time listen again to determine whether or not the nature of the conversations had changed, since that was the only way of determining that factor.

Q During the pendancy of the orders, did you have opportunity to review the results of the surveillances to determine whether the instructions of minimation had been complied with?

A Oh, very definitely.

Q Tell the Court what opportunities you had to review the surveillance to determine if miniminization requirements were being complied with?

A Ok. I can't remember any actual specific knowledge -- no. I do remember some specific instances.

Generally, many of the contacts I had with Mr. Parsons or the monitoring or surveilling agents concerned either hypothetical situations or actual considerations where they queried me about whether or not to continue monitoring. And I am pretty sure that -- well I know that Mr. Parsons and I had talked hypothetically about evidence of other crimes. For me that was an easier determination because I told Mr.Parsons, as long as it involved some criminal activity, go ahead and monitor.

Q Were you getting daily reports summarizing the surveillances being conducted by the agents pursuant to the orders that were signed by the judges in question?

A Yes. I was getting -- of course, I was getting verbal reports daily. Mr. Parsons also had typed up written reports either to me or Mr. Dillon, my supervisor at the time. They weren't carried over each day. He would usually wait three or four days and then when time came for a progress report, bring themover to me.

Q Were the results of the daily communications to you ever made known to the issuing judge?

A Yes, sir. They would have been stapled to a covering letter that I gave to the issuing judge. And those letters are a part of the record here.

Q They were made known by the progress report?

A Ah, yes sir.

Q With respect to the issue of stealing, what instructions, if any, did you give Mr. Parsons or any other agents involved in this investigation concerning when the tapes were to be sealed?

A My instructions to Mr. Parsons on sealing stayed essentially the same during the entire investigation. That is, in virtually every instance, except for the last order, we expected to get extension orders.

MR. WALLACH: I am going to object to all of this. This is all subjective.

THE COURT: Well --

THE WITNESS: Ok. I can straighten out that answer, Your Honor, give a factual answer.

MR. SANDS: Good faith --

THE COURT: All right, strike it out.

When we talk about explanations, it may very well involve the expectations of the Government lawyer.

THE WITNESS: Your Honor, I testify --

THE COURT: Good faith is an element here, too.

MR. WALLACH: For the record, Your Honor --

THE COURT: I will allow it.

MR. WALLACH: For the record, I would like to state that I see no where in the statute where Congress made good faith and element of what was called legal elec-

tronic surveillance. I find nothing of that in Katz and --

THE COURT: I am not talking about it from that point of view. I am talking about it from the question of the delay in sealing. I expect this will be involved in the delay of sealing, too.

THE WITNESS: Yes sir. This is specifically what I am talking about right now.

THE COURT: Yes. All right.

THE WITNESS: Well, getting to the objective facts, I not only expected to, but for the Highway 2 order -- the order application and affidavit for that order was sent to the Department the last week in December, 1972. And the records of the Department of Justice reflect if that was received by them January 2, 1973.

MR. WILD: Highway 2?

THE WITNESS: Did I say Highway 2? I am sorry. Apartment 3092. These were for the Judge Weinstein orders. However, we didn't get the authorization then from the Department of Justice for Judge Weinstein's order until January 12, 1973, which was a Friday. And we couldn't get to Judge Weinstein until the next Monday, January 15, to have him sign the order.

Likewise, Mr. Parsons and I drafted the papers

Graham Avenue in Brooklyn, Williamsburg, in the general area of Devoe Street.

THE COURT: Do you remember what he looked like?

THE WITNESS: Yes, sir.

THE COURT: Describe him.

THE WITNESS: Five foot seven, stocky build, fellow late forties, darkish colored hair.

THE COURT: Clean-shaven or moustache?

THE WITNESS: Clean-shaven.

THE COURT: Dark complexion, light complexion?

THE WITNESS: Medium, I'd say, medium complected. No beard, no mustache.

BY MR. BARLOW:

Q Had you seen Mr. DiMatteo many times previously?

A Yes, I had.

Q Had you also listened to him during the Apartment 309 monitoring?

A Yes, I did.

Q Do you remember who gave you the inventory to serve on him, sir?

A I believe it was Agent Parsons.

Q And do you remember, did you serve it that day, or how much time elapsed between the time Agent Parsons gave

it to you and the service?

A I'm not positive if it took a day or two days, but it was within a couple of days, I believe, thereafter.

MR. BARLOW: I have no further questions of Agent Mitchell.

THE COURT: Anyone?

MR. WALLACH: No questions.

MR. HANNAH: Just one question.

CROSS EXAMINATION

BY MR. HANNAH:

Q Was his hair straight back or was it wavy?

A I thought it was rather thick. It was parted. It was parted, I believe.

Q And did-- Different times you've seen him, have you ever seen him smoking?

A Yes, I did.

Q Doesn't he always have a cigar in his mouth? Pretty nearly always?

A I've seen him on occasions with cigars in his mouth, yes, or a cigar.

Q Have you ever seen Rosetti?

A Rosetti?

Q Yes. Pasquale Rosetti?

A I believe I have, I'm not certain.

Q Now, tell me, have you ever seen Rosetti smoking?

A Not for sure, no, sir.

Q How about his hair? Do you remember his hair?

A No, I'm not too certain.

Q Think back. Can you tell me whether or not he doesn't wave his hair in -- in waves? Do you know what I mean?

A I know what you mean, but I can't recall it, no, sir; I'd be--

Q And what about Rosetti's weight? How much would you say he weighed?

A Oh, 170 pounds, 180 pounds.

Q How much do you think that DiMatteo weighs?

A Pretty much in the same area.

Q Would you be surprised if I should suggest to your-- I'll strike that out.

In 1972, when you saw him, wasn't DiMatteo 50 or 60 pounds lighter than Rosetti?

A As I say--

MR. BARLOW: I'll object, your Honor, just for the purposes, we don't have a time when Mr. Mitchell saw Mr. Rosetti.

MR.HANNAH: 1972.

I'll ask him.

Q Did you see Rosetti in '72?

A I believe so, sir, yes.

Q How about Mr. DiMatteo, in '72?

A Yes, I did.

Q Now, did you know who was who?

A I knew DiMatteo, yes.

Q And when did you-- When did you first know DiMatteo as DiMatteo in '72?

A I couldn't give you a specific date, but it was after we obtained a photograph, I believe, from the records of the New York City Police Department.

Q Well, was it before or after December 8, 1972?

A I couldn't tell you for sure.

Q Do you have any records that would show you that?

A I don't have any, no, sir.

Q Does the FBI have any record that would show you that?

A I don't know; I don't know for sure; I'm vague on it. I'm really-- I'm not sure. I would imagine so.

Q Did youever discuss with Mr. Parsons, Anthony DiMatteo before December 8, 1972?

A I'd have to refresh my recollection as to when--

THE COURT: Was there a time when you believed DiMatteo's name was Rosetti?

THE WITNESS: There was a time when we were uncertain, yes, sir.

THE COURT: Was that during the time when you had DiMatteo under surveillance?

THE WITNESS: In the initial stages, yes. There was a question in my mind, yes, sir.

THE COURT: Then at some point you learned that his name was DiMatteo and not Rosetti?

THE WITNESS: Yes, sir.

THE COURT: At that time did you learn to distinguish between both of them?

THE WITNESS: Oh, definitely, yes, sir.

THE COURT: Was the distinction clear to you?

THE WITNESS: Yes. It was clear to me, yes, sir.

THE COURT: Any question about mistaking one for the other?

THE WITNESS: No, sir.

BY MR. HANNAH:

Q Now, the next thing, when did that come about? Was it before December 8, Mr. Mitchell?

A Again, I am not certain of the date. I can't

recall offhand.

Q Let's go back to--

THE COURT: I can't wait to hear you tell me who the cigar smoker was.

MR. HANNAH: You mean for health purposes, Judge, or for legal purposes?

THE COURT: For tactical purposes. I suppose you won't tell me. Now I know it was DiMatteo.

Q I just want-- Mr. Mitchell, were you one of the agents that were involved in the surveillance and -- is it 76th Street? I'll get it in just a second.

MR. BARLOW: I can help Mr. Flamhaft, your Honor. Yes, 76th Street, 3631.

Q 3633, I think it was, 76th Street.

Were you one of the agents who were watching that building?

A In Queens?

Q Yes.

A I believe I may have, yes, sir.

Q Yes. Did you see Mr. DiMatteo at that time?

A I can't recall for sure, sir.

THE COURT: Jackson Heights, Queens?

THE WITNESS: Yes.

THE COURT: Not Long Island City?

THE WITNESS: Yes, I know.

THE COURT: Around 76th Street.

THE WITNESS: A little bit further out, right. Going back time-elementwise, I have nothing to refer to.

Q Did you see Mr. Rosetti at that time, at that address?

A No, sir, I don't believe so. I don't recall seeing him at that address, no, sir.

Q And how many-- Would you say that you saw DiMatteo at that 76th Street address a number of times?

A No, sir.

Q Four or five?

A Again, I couldn't be specific because of the time element.

THE COURT: Did you see him there at least once?

THE WITNESS: I believe I did, yes, sir.

Q At that time did you know him as DiMatteo?

A I couldn't say. I can't say yes or no on-- to that at that time.

Q Did you-- Are there any reports that would-- that you put in that would clear this point up?

A I'd have to-- I would have to refer to maybe

some of the records Mr. Barlow has, but offhand I can't recall any specifically.

Q Would it be in your surveillance record?

A It's possible, but I don't recall specifically the dates you are speaking of. I'd have to refresh my recollection.

Q Well, how would you refresh it? That's what I want to know.

A If --

Q What would be required for you to refresh it?

A If there was a surveillance log written for that day.

Q All right. Can you look at those surveillances and tell me?

MR. HANNAH: Mr. Barlow, is Mr. Mitchell from out of town?

MR. BARLOW: Yes, sir.

THE WITNESS: Yes, sir, I am.

MR. HANNAH: Could you show him those and we'll leave a -- only a few for October.

BY MR. HANNAH:

Q Did you also see Mr. DiMatteo at the Astoria address?

A Yes, I believe I did.

Q And at that time did you know him as DiMatteo?

A I don't recall now if I knew him as DiMatteo, no, sir.

Q Was that before December 8th?

A What was before December 8th. Whether I saw him in Astoria before December 8th?

Q Yes.

A I couldn't say for sure. I'd-- If I could refresh my recollection with a log.

Q Did you ever see Mr. Rosetti in the Astoria -- in the neighborhood of this Astoria, 27th Avenue apartment house, before December 8th?

A Mr. Rosetti?

Q Rosetti, yes.

A I don't believe so, no, sir.

Q Now, the man that you saw in Astoria before December 8th, was he smoking cigars?

A I don't recall, sir.

Q The fellow that you saw as DiMatteo in 76th Street, did you see him smoking cigars?

A Yes, I did.

Q Was this the same man that you saw in Astoria?

A I believe it was, sir.

Q Before December 8th?

A I believe it was, yes.

MR. HANNAH: All right.

THE COURT: Anything further?

MR. HANNAH: That's all.

THE COURT: You may step down.

THE WITNESS: Thank you.

THE COURT: You may return to wherever you came from, I forget where it is.

THE WITNESS: It's a pleasure. Thank you, sir.

THE COURT: Any others?

MR. BARLOW: No, your Honor.

Mr. Mitchell, I believe, was the only one to testify outside minimization.

THE COURT: Do you have any special agents who come from out of town?

MR. BARLOW: With the stipulation on the minimization incorporating the Saccone testimony, your Honor, I think we're finished with all the testimony we need from the out-of-town agents.

THE COURT: Then they can go back.

MR. BARLOW: Yes, sir.

THE COURT: All right, fine.

prior experience had been that extension orders would be reviewed and the authorization either given or not within the space of two or three or the most four days. For original orders it was taking longer at that time, anywhere from a week to a week and a half.

However, even though the papers for 309, two, got down to Washington, I believe the day after New Year's in '73, the authorization didn't get back until January 12th.

THE COURT: Were you aware that the statute required sealing immediately?

THE WITNESS: I know that I had read the statute and that particular part and I certainly had knowledge that the statute said, immediately.

THE COURT: No. Were you conscious of that when you decided to wait until the renewal of the succeeding order was approved before asking for the sealing or did you just overlook it?

THE WITNESS: I'm sure that it had slipped my mind as to the word "immediately", within that space of time, because I had -- I'm sure that if I had remembered the word "immediately", that even though I was getting ready for trial, I would have

had Mr. Parsons bring the tapes over for sealing, you know, long before the authorization got back for the extension order.

THE COURT: Well, I -- but --

THE COURT: You suspect that that's it, you weren't conscious of the-- at that time, of the -- or fully aware of the need for an immediate sealing?

THE WITNESS: Well, I think -- I'm certain that I was charged with knowledge of the prior, but I know that during that interim, I wasn't thinking about immediate sealing and as I said, there were two factors.

First, I didn't reread the statute in the interim and second, I was primarily concerned with getting ready for two trials. I had -- I had had a trial set down somewhat unexpectedly for the day after New Year's in '73, United States versus Gulizio, before -- heavens, I can't even remember -- oh, before Judge Rayfiel and I know that the week between Christmas and New Year's and over the New Year's weekend, I think New Year's fell on a Monday, as Christmas had, I was talking with the Secret Service agents and getting the evidence ready for that trial.

And then I got pleas in that case, on January 2nd, but I believe it was that day I got a notice for a trial before Judge Neaher in United States versus Carubia, for January 8th and I was talking with the several FBI agents who were involved in the case, as well as approximately five or six New York City policemen who had done the actual wire-tapping concerned in that case.

So, my best memory is that because of everything that was happening, that is probably the reason why I didn't call Mr. Parsons and have him bring the tapes over, since the extension authorization was taking so long to be done.

BY MR. SANDS:

Q Mr. Barlow, was this approximately three week delay done intentionally? Was it the result of any intentional act on your part?

A No, sir.

MR. WALLACH: Objection.

THE COURT: I'll allow it.

A No, sir.

Q Did you have conversations with the agents between -- conducted the surveillance between the conclusion of the authorized interceptions and the sealing

happened. I'm talking about the language of the statute. Mind you, the statute had to deal with those instances where unexpected conversations came into the interception.

MR. ADLER: Well, I --

THE COURT: Unanticipated.

MR. ADLER: Our point is as to Mr. Vigorito, they weren't unanticipated based upon the Government's surveillance prior to the order.

THE COURT: Now we're quibbling. If it was one conversation, there is no reason to suppose that would even happen again. Then the second conversation was unanticipated, in my humble opinion.

Go ahead

BY MR. SANDS:

Q Mr. Barlow, after you made your initial determination in drafting your papers, what did you do next?

A The papers are transmitted to Washington in various ways. For the very first order for Apartment 309, I flew to Washington with the papers on December 1st. They were sent down to Washington by mail for Apartment 309, two, and for the Howard Beach wiretap. That's Judge Rosling's

order.

For the Highway 1 order, that was also sent down to Washington by mail and either by a delay in the postal service or in the mail room in the Department of Justice, that didn't get there until four, five days after it was sent down.

So, for the Highway 2 order, the one Judge Bartels signed May 3rd, I again flew down with that order and started the actual papers through the review process on May 1st.

And then I believe for Judge Neaher's order for May 24th, I flew down with those, also.

Q For what reason are the papers transmitted Washington?

A Well, as a -- as is reflected in -- I believe it's a Fifth Circuit case, that is cited in our memorandum, there is a rather lengthy multiple step review process.

Q Which eventually winds up with what individual?

A Well, the last -- the last person chronologically it winds up with is the Assistant Attorney General in charge of the criminal division. In that case, it was Mr. Peterson, who signs an authorizing letter which would have been to Mr. Dillon at that time. The highest step

functionally, the review process goes to -- is the Attorney General, who signs an authorizing memo to the Assistant Attorney General and then both the memo from the Attorney General and the letter from the Assistant A.G are sent in our case to the Strike Force, either through the magnafax machine and I believe that happened in all cases, or where time isn't of the essence, in the mail.

Q What factual determination is made by officials of the Department of Justice in Washington in connection with all of these draft papers?

A To put it in one phrase, they go through all the papers with a very fine tooth comb.

MR. WALLACH: I object.

MR. HANNAH: I object.

THE WITNESS: I'll strike that.

THE COURT: Strike it out.

THE WITNESS: Okay. The factual -- they make the same factual determinations that the case agent and the applicant, in this case, Mr. Parsons and myself, make out in the field. They review the affidavit for probable cause, again as to the involvement of the subjects, the probability that they're going to be involved in the illegal conversations and the third step, the probability

that they're going to be involved in those conversations either on the premises for a bug or over the telephone for a wiretap. They also review the language of the order, the affidavit and the application, to be sure that first it conforms to the statute and that all the essential elements under 2518 are included in those three papers and with a secondary reviewing to make sure, as much as possible, that the language used in all wiretap and bug applications remains standard for the Department of Justice. And I have one example of that that concerns Mr. Hannah's client.

I'll be referring to Government's 1 for identification, which contains the order, applications, affidavit for the 309, one, interception.

Mr. Parsons' affidavit was typed in Brooklyn and I took that and, of course, I took copies of that, the order and the application, down to Washington with me on December 1st, '72.

We had drafted his affidavit and the order and the application referring to a person we later found out was Mr. DiMatteo. We referred to him as, "An individual --" excuse me. I'll strike that. We referred to him, "An individual believed to be

Pasquale Joseph Rosetti".

The reviewers in the Special Operations Section of the organized crime section deleted the phrase, "An individual believed to be", because that wasn't conforming to the standard way that they were referring to persons at that time.

I know that Mr. Druker had had the same -- the same thing happen to him back in early 1972, where he referred to unknown persons as John Does, and -- I remember that his papers had to be changed and I transmitted them over the magnafax to him since I was down in Washington at the time.

(Continued on next page.)

A (Continuing) After that phrase had been changed to "...individuals known only as..."

In any event, for the order that Judge Judd signed, the application and the order deleted the phrase, "...an individual believed to be..." leaving then only the name of Pasquale Joseph Rossetti.

And of course the authorizing memoranda -- authorizing memorandum and the authorizing letter cut out the phrase, too. And in addition to cutting out the phrase, they also cut out the name Pasquale Joseph Rossetti, which is why his name didn't appear in the authorizing memorandum letter.

Q Using the criteria that you previously described did mere suspicion justify naming someone in your application?

A No, sir.

MR. WILD: What was that?

THE COURT: I will allow it. It is a conclusion.

MR. WILD: I just couldn't hear the question.

THE COURT: Did suspicion warrant naming someone in the order. I think the answer is self-evident.

A If I can amplify that, naming as a subject, definitely not; naming in the factual part of the affidavit, yes.

Q Would you have the final determination as to the final form the application and affidavit that is to be presented to the authorizing judge?

A No.

Q Who had that kind of determination?

A That determination would be -- actually at the highest level. That determination would be made finally by the Attorney General, I believe -- yes, sir, definitely by the Attorney General.

Q And ultimately before that kind of surveillance could be made, who made the final determination as to probable cause?

A The issuing judge.

MR. SANDS: I have nothing further of Mr. Barlow.

THE COURT: Mr. Adler, do you want to start?

MR. BORSTEIN: Can we have one minute, please.

MR. WALLACH: Can you make a little more than a minute, Judge?

(A Conference thereupon ensued between counsel for the defendants at defense table, out of the hearing of the reporter.)

THE COURT: Do you want a recess, gentlemen?

MR. WILD: Five minutes, your Honor.

(Short recess.)

(After recess.)

CROSS-EXAMINATION

BY MR. ADLER:

Q Mr. Barlow, does the Justice Department have a position on the issue of sealing or the requirement for sealing?

THE COURT: Do you mean separate and apart from the statute?

Q (Continuing) Separate and apart from the statute.

A No, sir.

Q Did they give you any particular instructions on sealing?

A As I remember, the electronic surveillance manual directs sealing immediately. It tracks the statute.

Q Did you ever ask anybody what that term meant?

A I have asked people. I have tried to decide myself. I looked in all the case law for it. No one has decided it.

Q Mr. Barlow, are you familiar with what the time requirement is as to the giving of notice, inventory notice?

A Yes, sir. 2518, sub 8, says within a reasonable time but not less than 90 days from the termination of the order, or any extensions of the order, and also makes provision for postponement of the service of the inventory on a showing

of cause to the issuing judge.

Q What about amendments on the wiretap or eavesdrop orders to include either new persons or new crimes? What does it say about that?

A Absolutely nothing. There is no amendment provision in Title 3 unlike the amendment provision in Article 700 of the CPL.

Q But the inventory notice provision speaks of as soon as practical?

A No, sir. It says within a reasonable time but not more than 90 days.

Q But the inventory notice talks in terms of immediately, doesn't it?

A No, sir. It says what I just said.

Q Excuse me. The sealing requirement speaks in terms of immediately, doesn't it?

A Yes, sir.

Q Did the Strike Force have any manual or instructions on the sealing requirement?

A Only what I just said.

Q Separate and apart from the Justice Department.

A No, sir.

THE COURT: Did you ever have a system of calendaring the various steps on the intercepted orders?

A Our office never did, your Honor. And the Criminal Division did not until I believe sometime last year. Now there is a calendar system down probably in the Special Operations Unit, but someplace within the Organized Crime Section, and a secretary in the section will call the applicant, whether he is a Special Attorney or an Assistant U.S. Attorney, one or two days before the termination of the order to remind someone --

THE COURT: Is this done from Washington?

THE WITNESS: Yes, sir.

THE COURT: Thank God somebody is doing it.

THE WITNESS: Yes.

Q At the time you received authorization to commence the electronic surveillance on what we have denominated as Highway 1, did you calendar ahead for the termination date in your diary, or did anyone else in the Strike Force.

A I did in my diary, yes, sir.

Q Did you similarly indicate anywhere in your diary when you had to seal those tapes?

A I don't remember making separate entry because the same entry would have sufficed for both.

Q Now, you have testified, Mr. Barlow, that in your opinion at least the propriety of seizing conversations under authorization of Highway 1 lasted until April 30th, is that

correct?

A Well, my opinion, and that of everybody in the reviewing process in the Department of Justice in Washington.

Q That is April 30th?

A Yes, sir.

Q And how late on that day could you seize conversations in terms of the order?

A As I remember Judge Bartels signed that first Highway 1 order -- Well, I don't have to rely on my memory -- Judge Bartels signed the order -- oops, excuse me -- at 5:30 p.m., April 12. So that the order expired 5:30 p.m. April 30.

THE COURT: Now, you understand that -- or you argue that the extension of 309 to extend to the time of sealing the tape for 3091? In addition to postponing the notice of inventory? Is that what you say?

THE WITNESS: No, sir. When we submitted the papers for Apartment 3092 and for Apartment 3093, they were submitted as extension orders. And the language talked about continuing extension. However, that was changed in Washington after it had been in Washington for -- well, for several weeks for both of the orders. They were treated by the Department as being original orders.

THE COURT: Each one of them?

THE WITNESS: Yes, sir.

THE COURT: 301 and 309 -- I mean 3091, 2, and 3?

THE WITNESS: Yes, sir.

THE COURT: Well, strangely enough Gigante seemed to indicate that extension orders also extended the time for sealing.

Now, if that is so, where is the logic in the lack of reliability in the tape, because it takes so long from the time of termination to sealing. If you can extend the time of sealing theoretically at least for months or years, and the first tape that is made on the very first day of the first order, how does the logic stand up then when -- in Gigante when they talk about the length of time between the time of termination and sealing, that the tapes are unreliable?

MR. WALLACH: May I reply?

THE COURT: Yes. I don't understand the logic.

MR. WALLACH: Your Honor, the Government in that case -- and again this is a public record and I am not saying it --

THE COURT: Well, you are in the case.

MR. WALLACH: Your Honor, the Government in that

case relied on United States against Falcone, which was a two-to-one decision in the Third Circuit. I recollect when I read that that Judge Roseanne, who dissented, and his dissent was adopted, if I may use that word --

THE COURT: Judge Kaufman says that he adopted Judge Rosen's, not Roseanne --

MR. WALLACH: I am sorry. I am bad on names. I am sorry. He did say in a footnote that even if the agent has it overnight during the duration of the wiretap that there would be a problem of lack of sealing.

I believe he said that in a footnote. I believe it is best to read the footnoter before I read the opinion.

(Continued on next page.)

THE COURT: It is strange that the Government takes the position that 3092 and 3 were not extensions of prior orders.

THE WITNESS: If I may explain that, your Honor, as I said, they were originally submitted -- in that case the orders were sig[illegible] within several days after the termination of the prior order. And, as I said, even 3092 and 3 were submitted to the Department as extensions. However, the reviewing process took so long that they struck the word "continuing" from the order application and the affidavit before they came back up to New York.

THE COURT: Go ahead. I don't want to ask any further questions.

BY MR. ADLER:

Q Mr. Barlow, did Judge Bartels call you on April 30th and ask you where the tapes were that he had sealed?

A No, sir. No Judge ever did --

Q At any time --

A -- for any of the orders.

Q Who was the Chief of the StrikeForce, was your employer or supervisor during the course of Highway 1, 2 and 3?

A Mr. Dillon.

and for the Howard Beach wiretap. That's Judge Rosling's

Q Did he ever ask you to seal the tapes of Highway 1, 2 and 3?

A Not at that time.

Q Did Agent Parsons ever call you up or ask you on the termination date or within the next following day or two whether or not the tapes from the prior order had been sealed?

A No, sir. He knew they had.

Q Mr. Barlow, you were in court when Agent Parsons testified.

Do you recall him testifying that there were occasions when Mr. Parsons did not receive the tapes of the seized conversations on each particular day? That sometimes he wouldn't receive them until the next day?

A Yes, sir.

Q On those occasions who would have had custody of those tapes until they were turned over to Agent Parsons?

A I do not have any direct knowledge. But Mr. Parsons told me that in those few occasions the monitoring agent would keep it in his custody or lock them up overnight -- No, I will strike that last portion.

He told me that the monitoring agent kept custody of it until he gave it to Agent Parsons.

Q Mr. Barlow, have you ever made a duplicate copy

have been to Mr. Dillon at that time. The highest step

of a tape yourself personally?

A Any tape?

Q Any tape.

THE COURT: In this case? Any tape in this case or do you mean any tape --

MR. ADLER: Any tape, any time, anywhere.

THE COURT: Any case, I assume.

MR. ADLER: It could be privately.

THE COURT: Privately?

MR. ADLER: It could be Henry Mancini or --

THE WITNESS: Oh, yes, sir.

Q Isn't it a fact that with careful dubbing or alterations that a tape can be altered without exhibiting gaps or breaks which would be picked up by the untrained ear? Isn't it a fact that skilled personnel --

THE COURT: Mr. Adler, I challenge you to take one of the tapes, make a copy, and you try to dub it in. And I say I will get an expert who has not heard the tape at all and who will pick the precise place where it is dubbed in. Now, there you are. Why don't you try it? We will have an expert brought in who has never heard any of the tapes. He will pick the precise point at which you dubbed it in.

MR. ADLER: Well, your Honor, I am not prepared

to do that this afternoon.

THE COURT: Well, I have done a little investigating on this. I know a little about it. It is not done just that easily.

MR. ADLER: I am not saying it is done that easily. But I will rely upon the opinion in Gigante for the proposition that there is no obligation upon defense counsel to show --

THE COUPT: Yes. And I question it. And I can say that with due respect to the Chief Judge of the Circuit. And I do not have to accept everything that is said in the case.

MR. ADLER: Yes, sir.

BY MR. ADLER:

Q Now, moving along --

THE WITNESS: Your Honor, do you want me to arswer? I will answer it if the Court wants me to.

THE COURT: Go ahead.

THE WITNESS: As to your precise question, yes, there is a possibility that a skilled expert can dub, or subtract, or change something in a tape that a person with an untrained ear couldn't detect.

(Continued on next page.)

3pM
HS/nc

CROSS-EXAMINATION

BY MR. ADLER: (Cont'd.)

THE COURT: I may very well, in anticipation of any appeal on that particular point, ask the Government to make a record of that and let another panel look at it.

Q When you brought the application of Highway I to Judge Bartels did you tell him how you were going to install the device?

A I didn't tell him how. I told him we were going to install it.

Q Did he ask you how you were going to do it?

A Yes.

Q What did you tell him?

A I told him that the agents were going to go in that night and install the microphone someplace in the back of the Highway Lounge.

Q Did he ask you if you had the permission of the owner of the premises to do that?

A Yes, sir.

To the best of my memory he did ask us about that and Agent Parsons then told him about the number of lookouts that were in that area, families living near the Highway Lounge that the agents had seen who were acting

A No, sir. I didn't have anything else to add in the way of sworn testimony.

Q Did there come a time during the course of Highway I when the microphones were moved about in the premises?

A Yes, sir.

Q Did you go back to Judge Bartels then and tell him you were going to do that?

A No, sir, I did not. I'd have to look at the progress reports to see whether they reflect that or not.

Q Did you ever tell him that?

A I never told him personally or over the phone, no, sir.

Q Other than at the time you obtained the authorization from Highway I, did you ever again have a discussion with Judge Bartels while he was the authorizing Judge concerning your entries -- when I say yours, I mean the Government's -- into Highway I either to install, move around or rejuvenate an eavesdropping device?

A No, sir, I never had any discussion with him on that.

Q Agent Parsons or any other agent have any discussion with Judge Bartels along those lines?

A I can say definitely not. Agent Parsons

only saw Judge Bartels and conversed with him when he was with me.

Q So the one conversation you had with Judge Bartels is when he approved the initial entry into Highway I; is that correct?

A Yes.

I may have had conversationwith him when I delivered the progress reports to him, but I don't remember what they were. I am not sure whether there was conversation. I just cant testify as to that.

Q Was there a Court Reporter present at the time you submitted progress reports to Judge Bartels?

A No, sir.

Q Mr. Barlow, you testified that there were times when -- on the termination date of an order -- you were preparing a trial or actually on trial; is that right?

A Yes.

Q Was there a policy within the Strike Force to have a backup person, either an attorney or some other clerical personnel to take care of ministerial tasks while an assistant was actually on trial, preparing for trial?

A No, sir, there was not.

Q Now, you testified, Mr. Barlow, on how many

occasion -- strike that.

On how many occasions did you apply to Washington, D.C. to obtain authorization for the electronic surveillance on Highways I, II and III?

A I flew down I know on May 1st. I am pretty sure that I flew down for the May 24 order, also.

I am not as definite on that. I could go back and look at my travel vouchers to be absolutely sure.

Q I don't think that is necessary.

A Okay.

MR. ADLER: Just for my information, are the progress reports deemed marked in evidence at this time?

THE WITNESS: They have been.

MR. ADLER: I have no questions onthat issue.

Q The last issue I have at this time is the questionof the naming of Mr. Vigorito in the eavesdropping order.

To your knowledge is Mr. Vigorito -- was Mr. Samata Vigorito the subject of photographic surveillance during the year 1973?

A Yes, sir, I believe you looked at the photographs yesterday.

19

Barlow-cross/Hahnah

Q Yes.

A -- but we had also typed up not only the memorandum from the Attorney General and the letter from the Assistant Attorney General again but the internal documents for the review process so that we wouldn't lose the time it took to have them typed in Washington.

In those, Mr. Rossetti was named "as an individual believed to be Pasquale Joseph Rossetti."

Q I see.

Now, you testified before that you were one of the persons that drafted the affidavit of Mr. Parsons, right?

A Yes, sir.

Q Now, in going over Mr. Parsons' affidavit did you review the surveillance or the log of the agents who were working in October -- on October 18, 1972 on this case?

A Agent Parsons didn't bring over the actual surveillance logs. As I remember he brought over either handwritten or typewritten summaries, most of the surveillances that he told me were relevant to the subjects we expected to get probable cause on for theorder.

Q One of the questions that you decided was probable cause, right?

A Initially decided.

Q Also one of the questions was identity, right?

A Yes, sir.

Q Now, when you made your decision as to identity, did you have the log of October 31, 1972 before you?

A No, I already told you that I didn't have any of the logs.

Q Did youhave -- what excerpts fromthe logs did you have?

A As I remember I used to go with Agent Parsons virtually through all of the surveillances that he brought with him inthe affidavit, so that the surveillances mentioned in the affidavit would be virtually identical with the information that he brought to me.

Q You incorporated what he brought over to you into his affidavit?

A Right.

Q So would it be fair to say the only material that you looked over was what Mr. Parsons gave you to look over?

A Yes, sir.

Q Now, did you have any conversation with Mr. Parsons about Patsy Rossetti, Pasquale Rosetti, at the time that you drew the affidavit?

21

Barlow-cross/Hannah

A I am sure that I had. I don't remember, you know, the exact conversation.

Q Did he tell you how many times Pasquale Rossetti had been observed?

A I am sure he had, yes,sir.

Q Did he tell you where he had been observed?

A Well, he told me the surveillances that are reflected in the affidavit.

Q Yes.

Did you know where Rossetti lived?

A From the information that Agent Parsons gave me, yes, sir.

Q And do you remember the address?

A I don't remember it,no.

Q Was it taken from the list attached to the exhibit?

A Yes.

Q Was Pasquale's address 501 Metropolitan Avenue?

A If that is what the affidavit says, that's what I thought it was, yes,sir.

Q To your knoowledge did anybody ever go around to 501 Metropolitan Avenue, the address that I just mentioned, to find out if Rossetti lived there?

A Very definitely not, I'm sure.

21a r1

Q You mean nobody went there?

A You know I can't speak for all the agents but knowing of where that address is, I am sure that they did not,

(continued next page.)

GR flws7

Rsf
pm

BY MR. HANNAH:

Q Yes. Did you ever suggest to anybody that they go there and find out if Rosetti lived there?

A Definitely not, knowing that address.

Q Now, did Mr. Parsons ever tell you that this red Chevrolet, New York license No. QH 5287 was parked in front of 5354 Metropolitan Avenue, Queens?

A If it's in the affidavit, he told me or had written--

Q It's not in the affidavit. That's why I'm asking you.

A Oh.

That's the date of --

A Probably didn't. Okay. What was the address again?

Q November 14th. I don't see it in the affidavit.

A November 14th? What was the address, sir?

Q 5354 Metropolitan Avenue, Queens.

A Oh, I'm sure he wouldn't have told me about that.

Q He would not have?

A Definitely not.

Q Well, if he -- as an experienced investigator,

if a car registered in Rosetti's name was registered from 501 Metropolitan Avenue and the car had been observed over a period of time and was parked in front of 5354 Metropolitan Avenue, which is an apartment house, wouldn't you -- wouldn't you have -- would you have suggested to him that further investigation be made as to who is using the car and if that person using the car lived at 5354 Metropolitan Avenue?

A Well, in the first place I'm not an experienced investigator. I'm just an attorney. And I can't answer your question unless you give me the date again of that surveillance.

Q Yes. I'll be glad to. November 14, '72. At 6:40 p.m. and the agent was Liesegang and I'll read you the -- the entry before that, by the agent Liesegang. "Observed a white male exit 8-15 27th Avenue, enter above Chevrolet and drive via local streets to McGinnis Boulevard and Calyer Street, Brooklyn, where at one time John Doe C. was observed driving his green Ford and pulled up next to the above Chevrolet and waved. 6:40, red Chevrolet, New York license QH 5287 parked in front of 5354 Metropolitan Avenue, Queens."

Now, do you know where DiMatteo lived?

A I don't really know where he lives now, sir,

no.

Q Well, do you know if he lived at 5354 Metropolitan Avenue at that time?

A No.

Q All right. Did Mr. Parsons tell you at any time that the licens this was in December, I believe -- no, November. That on November 28, 1972, the license plate on the red Chevrolet was now AQ 6565?

A I don't remember him telling me. I'm not surprised.

Q All right. Now, when for the first time were you advised that the person referred to as Rosetti was in fact Anthony DiMatteo?

A I'm pretty sure it would have been along about -- somewhere between three, five days into the interception, which would make it --

MR. HANNAH: Excuse me, Judge.

A Certainly. I'll stop for a second.

MR. ASPI: Excuse me.

MR. SANDS: Your Honor, while counsel is referring, might we inquire of Mr. Barlow where the surveillance photographs are that he instructed special agent to look for down in the office?

THE COURT: Suppose you step down and tell

them.

THE WITNESS: Sure, your Honor.

MR. WALLACH: Your Honor, may I just step out for a second? This is not relevant to Mr. Scafidi. Thank you.

BY MR. HANNAH:

Q Excuse me, Mr. Barlow.

A Could the Reporter --

MR. HANNAH: May I have the last question?

(Read)

A Some time between December 11th, December 13th, 14th.

Q All right. Now, in the order that Judge Judd signed, he named Pasquale Joseph Rosetti, right?

A Yes, sir.

Q This is in the order part of the order?

A Right.

Q Yes. Now, in the other part of the order, is -- Section A, there is reasonable cause to believe that Pasquale Joseph Rosetti, and then the others, is that right?

A Yes, sir.

Q All right. Now, did you hear Agent Mitchell testify yesterday?

A Yes, sir.

Q Yes. You hear him testify that he had been shown a photograph?

A Yes, sir.

Q Do you have that photograph in court, Mr. Barlow?

A Yes, I do.

With the Court's permission, could I get it and we can mark it?

Yes. Mr. Hendrickson brought me today the -- two arrest photographs, one of Pasquale Rosetti, Pasquale Joseph Rosetti and the other of Mr. DiMatteo and they both appear to be police arrest photographs, mug shots.

THE COURT: Suppose you mark them.

THE WITNESS: I would ask Martin Adler to mark them as Government's 59 and 60.

THE CLERK: So marked.

(So marked)

THE COURT: May I see them?

THE CLERK: Yes, sir.

THE COURT: I suppose it's difficult to tell them apart because one does not have the cigar in his mouth.

MR. ASEN: Which one has --

MR. BORSTEIN: One has the nickname Yellow Finger.

MR. ASEN: Yellow Teeth.

THE COURT: Did you run out of stickers?

THE CLERK: I have some, Judge. All right. The two photographs marked Government's Exhibits 59 and -- 60 for identification.

(So marked)

THE COURT: Suppose you leave those stickers until --

THE CLERK: I have some, Judge, I found them.

THE CLERK: All right. Show them to Mr. Hannah.

MR. HANNAH: I'd like to see them, yes.

BY MR. HANNAH:

Q Mr. Barlow, do you have a full face of Rosetti?

A No, sir. That's evidently all the FBI had back in the office.

THE COURT: Why don't you ask their mothers whether they can tell them apart?

MR. HANNAH: I'm sure they could , Judge. I'm sure they could. All right.

Q Now, getting back to the -- the reports to

Judge Judd --

THE COURT: Incidentally, why don't you identify -- have you ever seen Mr. DiMatteo?

THE WITNESS: I've seen Mr. DiMatteo, yes, sir. I've never seen Mr. Rosetti in person. I may have seen -- I think I saw surveillance photograph of Mr. Rosetti.

THE COURT: Why don't you tell us which -- which exhibit is Mr. DiMatteo or --

THE WITNESS: I asked him yesterday, your Honor, and he pronounced it DiMatteo.

THE COURT: DiMatteo.

THE WITNESS: Exhibit 59 is Mr. DiMatteo and Exhibit 60, therefore, is Pasquale Rosetti. It's marked on the back Pat Rosetti.

THE COURT: all right.

MR. HANNAH: All right.

THE WITNESS: Excuse me, your Honor, I'm mistaken. The surveillance photograph I would have seen would have been of Carmine Rosetti and that would have been February or March of '75.

THE COURT: All right.

BY MR. HANNAH:

Q Now, during 19 -- during October 1972 or

October 1973, were any pictures taken of the individual that you have -- that you referred to as Rosetti entering the 76th Street apartment house or in that vicinity?

A No, sir.

Q Were any pictures taken of a person now known to be DiMatteo entering into those premises or leaving those premises or in the area?

A No, sir. Although I should explain that that's -- that's not definite, not direct knowledge. Thats what Agent Parsons and Agent Liesegang have told me.

Q I see. All right. Now, in your report -- Mr. Barlow, in your report to Judge Judd on December 18, 1972, did you mention in that report and by the way -- I withdraw that.

At the time you wrote that report, did you know that Anthony DiMatteo was the person that you had previouly referred to as Rosetti?

A When I gave Judge Judd the report, I knew that the person was Tony Apples, at least.

THE COURT: Is that the same as DiMatteo?

THE WITNESS: Yes, sir. We heard Mr. DiMatteo explain that he used to steal apples when he was a kid and got thenickname Tony apples.

MR. HANNAH: I think -- I'll make a motion

to strike that out.

THE COURT: Strike it out. It isn't important.

Q What's the answer?

A I'm sorry. I thought I answered.

THE COURT: He said he knew him but he knew him as Tony Apples.

Q Did you report to Judge Judd that DiMatteo was in that apartment, in your report to him, the first report which you -- under your letter of December 18th?

A Not in those specific words.

Q Well, it's an identity of a person, isn't it?

A Yes, sir. The --

THE COURT: He might have thought that Rosetti was nicknamed Tony Apples. I don't see where that gets you. We're only talking about names, you see. That's why I can't understand the argument.

Q Well, at any time during the tap on Apartment 309, the first tap, did you ever report to Judge Judd that the person referred to as Tony Apples or as Rosetti was Anthony DiMatteo?

THE COURT: did you ever testify as to when you knew his true name?

THE WITNESS: Okay. I'm absolutely sure,

your Honor, that I knew his true name some time between Christmas and New Year's Eve of '72, because I sent down the papers for 309, two, on December 31st and that's drafted with his true name. Mr. Moscitti then was identified only as Barry Russo.

Q Mr. Barlow, you knew his true name before that, didn't you?

A Yes, sir.

Q Didn't you know it -- didn't you know his true name on December 20th?

A I probably did, yes, sir.

Q Well, didn't you -- in your affidavit, submitted in support of the pen register, which Judge Judd signed on December 20, 1972, and I call your attention to your affidavit and I call particularly your attention to the paragraph 9, December -- starting there -- don't you mention him in there?

A Yes, sir.

Q All right.

A So that Judge Judd knew on December 20th that --

Q My question --

A That Mr. DiMatteo was the gentleman in the -- in Apartment 309.

Q Did you ever have -- did you ever add him to the order for the fourth bug on Apartment 309?

A No, sir. I wasn't required to under the statute.

Q All right. Did you ever amend the authorization to change him, to add his name, to the authorization?

A No, sir. I'm not required to under the statute.

Q All right. But in all your reports to Judge Judd, in connection with the bug on Apartment 309, DiMatteo's name was never mentioned, was it, as such?

A I+ would have been in Apartment 309, two, but it was not during the --

Q I'm talking about 309, one.

A Okay. No. Just referred to as Tony Apples.

Q All right. And -- all right. Now, -- I think that's all.

THE COURT: Anyone else wants to examine?

MR. ASEN: Just a few questions, if I may, your Honor, on one point.

THE COURT: Go ahead.

CROSS-EXAMINATION

BY MR. ASEN:

Q Mr. Barlow, you indicated that you received

Logs of Monitoring Agents, Dec. 9, 1972 to Dec. 12, 1972.

pm Time	Initial	~~FI~~ ~~IC~~ ~~OG~~	Activity Recorded
2:58			Mrs instructed
2:58	dlc	1-10	Outgoing telephone call by Tony - Not typed Conversation garbled
3:11	dlc	10-47	Discussion between Tony + Barry re christmas money + money to Controllers
4:01	dlc	47-49	Barry asks about Phyllis + food
4:10	dlc	49-52	Barry exites + conversation garbled
4:40	dlc	52-60	Conversation about meeting someone for dinner
5:14	dlc	60-70	Barry received Duke, Al and Joe Blacks
5:15	dlc	70-80	Incoming phone call from John, answered by Barry
5:26	dlc	80-87	outgoing phone call (conversation garbled)
5:29	dlc	87-102	Conversation about $1000 checks, mostly N.I. inaudible
6:07	dlc	102-108	Discussed christmas money again
6:08	dlc	108-118	Barry talked about giving away turkeys
6:09	dlc	118-158	Outgoing phone call to Bobby by Barry J. Discussed christmas money + weekly winnings
6:14	dlc	158-9	Barry asked about football game
6:15	dlc	159-171	garbled conversation
6:42	dlc	171-200	out going phone calls by Barry - personal conversations
6:59			MIKE TERMINATED

EDNY 152
Log ..... Page 1
Day SAT Date 12/9/72
REEL #1
LIVING ROOM

Employee's Name: DAVID L. CLARK

Date Stamp

141a

Logs, Dec. 9 to Dec 12, 1972.

Time	Initial	IC OG	Activity Recorded
2:58PM	[illegible]	0000	Mission instituted.
2:58PM	[illegible]	0000	Telephone call outgoing NT.
3:09PM	[illegible]	0018	Conversation re Joe Bloch and Christmas bonus.
3:10PM	[illegible]	0042	Barry Russo mentions "Lefty"
3:11PM	[illegible]	0049	Barry Russo mentions various individuals
3:12PM	[illegible]	0100	Barry talk to "Apples" about being late —
3:15PM	[illegible]	0118	Barry answers phone.
3:26PM	[illegible]	0136	Barry mentions a thousand dollars.
3:29PM	[illegible]	0147	Apples asks for a number.
3:32PM	[illegible]	0158	Apples mentions numbers
3:06PM	[illegible]	0176	Barry mentions Christmas Money
4:09PM	[illegible]	0197	Barry gives results of computations over phone.
4:13PM	[illegible]	0238	Barry mentions bosses.
4:41PM	[illegible]	0260	Outgoing call. about "protege" cut off.
4:46PM	[illegible]	0288	Outgoing call. Personal cut off.
4:51PM	[illegible]	0297	Outgoing call. Probably no answer.
4:54PM	[illegible]	302	Outgoing call. Personal.
7:00PM	[illegible]		Mission terminated.

BEDROOM
Log ..... Page ..... 1 .....

Day SAT ..... Date 12/9/72

EDNY 152
8-15 27th AVE · APT 309
QUEENS, N.Y

Reel #1

Employee's Name

SA GREGORY HENDRICKSON

Date Stamp

Logs Dec. 9 to 12, 1972.

EDNY- 152

Time	Initial	ET. ~~00~~	Activity Recorded 1 7/8 speed
2:44 pm	RBL	0	MISUR INITIATED
	RBL	-5-	Tony + John Talk about a fight two teenagers had. Eggs. Couple of 'Coci's - on Cocaine.
	RBL	63	Horn.
	RBL	67	Sexual IQ Test.
	RBL	71	Inaudible.
	RBL	79	HORN.
	RBL	86	Going to Track?
	RBL	92	Have a nice day. Going home? yea. Xmas shopping
	RBL	93	Exit Apt.
	RBL	104	Enter someone. Inaudible. What happined to our fish? It's In the Frigidaire. Let's cook + eat it like that.
	RBL	108	Music on loud.
	RBL	118	Didn't you hear what I said?
	RBL	125	Tony - They did my kid in Saturday night.
	RBL	129	Tape off
	RBL	133	Off. Conversation inaudible. In another room.
3:30 pm	RBL	134	Machine noise in background.
	RBL	170	OFF
	RBL	137	Music
	RBL	178	Loud music
	RBL	193	Foot steps in room
	RBL	211	Foot steps
	RBL	237	STop - OFF
4:41	RBL	237	On
	RBL	239	Door opens + closes. Conversation

Log EDNY 152 Page 1

Day MON. Date 12/11/72

bedroom

page 1 of 2

Employee's Name
SA
Robert E. Liesegang

Date Stamp

Logs Dec. 9 to 12, 1972.

EDNY 152

Time	Initial	Ft. ~~No~~ ~~Sec~~	Activity Recorded
4:47	RBL	267	apparently adding machine in background.
	RBL	273	" " " " "
4:56	RBL	317	" " " " " continues
	RBL	326	OFF
5:12 pm	RBL	327	Conversation inaudible because of music.
	RBL	345	Loud music
	RBL	347	OFF
5:25	RBL	347	ON
	RBL	356	Clicking sound in background
	RBL	466	OFF
6:17	RBL	466	Female voice heard, enters apt.
	RBL	478	Inaudible because of music OFF
	RBL	479	ON
	RBL	488	OFF
7:00 pm			Discontinued

Log EDNY 152 Page 12/11/72

Day MON. Date 2

Bedroom

page 2 of 2

Employee's Name

SA Robert B. Liesegang

Date Stamp

144a

Logs Dec. 9 to 12, 1972.

Time	Initial	IC OG	Activity Recorded
2 19 pm	jhm	0	Surveillance instituted. Male enters and has brief general conversation with Johns. Conversation indistinct.
3 08 pm	jhm	94	John leaves.
3 10 pm	jhm	105	Barry enters and engages in general conversation with Tony. Indistinct. Music turned on.
3 12 pm	jhm	116	OG Phone call by Barry.
3 15 pm	jhm	129	Tony + Barry in conversation about money. Clicking sound heard.
3 30 pm	jhm	208	Tony + Barry discuss results of football games. Conversation indistinct.
3 44 pm	jhm	282	Tony and Barry continue indistinct conversation.
3 50 pm	jhm	323	OG Phone call by Barry.
4 40 pm	jhm	392	Clicking sound heard in background.
5 04 pm	jhm	460	OG call by Barry.
5 16 pm	jhm	537	OG call by Barry.
5 22 pm	jhm	600	Clicking sound heard in background briefly along with music.
5 41 pm	jhm	711	Radio turned off.
5 53 pm	jhm	801	Barry answers IC call.
6 17 pm	jhm	857	Phyllis enters apartment.

EDNY
Log 1.57 Page 1
LP
Day Mon. Date 12/11/72

Employee's Name
James F. Mitchell

Date Stamp

Logs, Dec 9 to 12, 1972.

Time	Initial	IC OG	Activity Recorded
6 21 pm	jfm	880	Reel stopped.
6 28 pm	jfm	880	Barry and Tony in unintelligible conversation.
6 30 pm	jfm	897	Reel stopped.
6 31 pm	jfm	897	Tony and Phyllis in general conversation.
6 33 pm	jfm	903	Reel stopped.
6 36 pm	jfm	903	Tony leaves.
6 41 pm	jfm	916	Barry leaves. Reel stopped. Surveillance discontinued.

Log EDNY 152 Page 2

Day Mon. Date 12/11/72

Employee's Name: JAMES F. MITCHELL

Date Stamp

Logs, Dec. 9 to 12, 1972.

LIVING ROOM

Time	Initial	FT ~~16~~ ~~96~~	Activity Recorded
2:56pm	CRQ	0	MUSIC INSTITUTED UPON ENTRY BY UNKNOWN.
2:52pm	CRQ	5	RADIO TURNED ON. WNBC AM.
2:56pm	CRQ	6	SOMEONE ENTERS APT. CONVERSATION.
3:01pm	CRQ	32	KNOCKING SOUNDS.
3:03pm	CRQ	36	BARRY TALKING — LESS THIS, LESS THAT....
3:06pm	CRQ	39	MIKEY JR. MENTIONED BY BARRY.
3:15pm	CRQ	51	RACE ON RADIO. TONY TALKING LOW DISCUSSING RACES.
3:19pm	CRQ	70	BARRY DISCUSSING RACES.
3:23pm	CRQ	80	BARRY AND TONY TALKING.
3:25pm	CRQ	88	(BARRY TALKING).... JUMPING ALL OVER MY BACK.
3:29pm	CRQ	95	192 FOR A DIME (TONY).....
3:29pm	CRQ	96	(BARRY).. YOU GOT 5 OVERLOOKS? TONY... NO, 1, 2, 3, 4.
3:32pm	CRQ	103	RACE ON RADIO... TALKING.
3:39pm	CRQ	120	(TONY) AND BARRY DISCUSSING RACE. N.T.
3:40pm	CRQ	125	(BARRY)... HOW LONG IS THAT, 6½?.... RACE DISCUSSIONS. KNOCKING NOISES.
3:45pm	CRQ	140	(BARRY).... RUG MAN... PUT IT DOWN HERE.
3:45pm	CRQ	142	(TONY)... ANY ACTION LEFT HERE? DISCUSSING RACES N.T.
3:47pm	CRQ	150	(BARRY)... GIVE ME 4 DOLLAR EXACTA ON.... HE N.T. CAN'T LOSE. TONY TALKING.... I'LL HAVE TO GIVE HIM SOME, RIGHT JOHN? THIRD PARTY HAD JUST ENTERED. RACE DISCUSSIONS.
3:52pm	CRQ	178	BARRY TALKING ABOUT POTATO SALAD TO JOHN. N.T
3:53pm	CRQ	183	COME ON JOHN. IT'S THE PACK (BARRY) N.T. N.T.
3:53pm	CRQ	187	RACE ON RADIO. RADIO TURNED UP. N.T.
3:59pm	CRQ	197	REMEMBER WHAT YOU GOT ME FOR? (BARRY) YOU DON'T WANT T.T TO REMEMBER.

EDMV Log 152 Page 1

Day Tues. Date 12/12/72

Employee's Name CHARLES REID QUEENER (Ranked Reid Queener)

Date Stamp

.Logs, Dec. 9 to 12, 1972.

Time	Initial	Ft. ~~IC~~ ~~OG~~	Living Room Activity Recorded
4:12pm	CRG	213	RACE ON RADIO.
4:12pm	CRG	216	(BARRY)... WHAT'S HE DOING BACK THERE?
4:14pm	CRG	226	(TONY)... Get the Number EARLY TODAY ✓ ✓
4:15pm	CRG	235	(TONY)... EVERY YEAR HE GIVES ME A BOTTLE OF BOOZE. TV T.
4:25pm	CRG	245	WHERE you going? (Barry)
4:46pm	CRG	268	PLAYED COMBINATION.... (TONY) — ?
4:51pm	CRG	290	JOHN, THANKS A LOT... (BARRY)
4:51pm	CRG	291	Hiya Honey (BARRY). APPARENTLY ON TELEPHONE.
4:53pm	CRG	300	(BARRY) (I'LL Be there) APPARENTLY ON TELEPHONE. N
4:53pm	CRG	302	(BARRY) you going to TROTTERS TONIGHT? APPARENTLY ON TELEPHONE. N
4:56pm	CRG	315	COME ON, I WANT to get out of here. (TONY)
4:56pm	CRG	315	(BARRY) 327.
4:56pm	CRG	320	(BARRY) I KNEW you HAD ....
4:57pm	CRG	325	(BARRY) 557? APPARENTLY ON PHONE
4:58pm	CRG	328	557, 450, VERY good. (BARRY)
4:58pm	CRG	330	(TONY) THIS guy gives me more NUMBERS.
4:59pm	CRG	336	(BARRY) YESTERDAY'S payoff.... ✓ ✓
5:01pm	CRG	351	~~CRG~~ (BARRY) OVERCHARGE back AND ~~CRG~~ fwd. CRG ✓ ✓
5:02pm	CRG	354	(BARRY) (I got the WRONG date.
5:02pm	CRG	355	~~CRG~~ (BARRY) WHAT WAS MONDAY'S date?
5:25pm	CRG	381	WHY CRG DON'T WE TAKE IT OUT NOW? (BARRY)
5:36pm	CRG	407	FEMALE ENTERED APARTMENT.
5:58pm	CRG	433	Barry and Phyllis talking of holding in smoke. Don't ~~CRG~~ CRG while
5:58p-	CRG	439	(Tony) I'LL TAKE A CAB.

Log 152 Page 2

Day Tues. Date 12/12/72

Employee's Name Charles Reid Queener

Date Stamp

Logs, Dec. 9 to 12, 1972.

Time	Initial	~~EJ~~ ~~LE~~ ~~OG~~	Living Room Activity Recorded
5:07pm	CRQ	459	BARRY DISCUSSING PORNO MOVIES.
5:16pm	CRQ	493	BARRY ASKED TONY HOW HE FELT.
5:20pm	CRQ	509	RADIO TURNED OFF.
5:23p	CRQ	539	TONY AND BARRY DEPART FROM APARTMENT.
			MISUR DISCONTINUED.

EDWY
Log 153 Page 3

Day Tues. Date 12/12/72

Employee's Name CHARLES Reid Queecher
Charles Reid Queenan

Date Stamp

Logs, Dec. 9 to 12, 1972.

Time	Initial	FT ~~JC~~ ~~OG~~	Activity Recorded
50p	VCS	00	Apt entered — MISUR instituted.
52p	VCS	05	Noise from within radio.
56p	VCS	08	Conversation as someone enters apt.
05p	VCS	37	Conversation between occupants of apt., clicking noise in background.
15p	VCS	54	"Back At the Track," WNBC/AM radio.
18p	VCS	67	"— Sloppy"
18p	VCS	70	"He won the big race," discussion of horses/racing
24p	VCS	77	Conversation.
26p	VCS	81	"
32p	VCS	88	"Back at the Track," WNBC/AM radio.
40p	VCS	105	"Tony," discussion of a horse.
41p	VCS	110	43, 4; speed in running.
45p	VCS	122	Picked winner in last race.
47p	VCS	132	"Right, John?"
50p	VCS	142	"who won 2nd race?" Exacta of 4-2. Discuss horse racing.
52p	VCS	155	Fifteen-ninety
53p	VCS	159	Doing it for $10 a month
54p	VCS	166	"Back at the Track," WNBC/AM
10p	VCS	212	— "John"
12p	VCS	220	9th race, "Back at The Track," "What's he doing back there?"
13p	VCS	228	"Give you $3.00 XX back"
17p	VCS	249	Discussion of the number. X
50p	VCS	270	Got to keep at least 75.
51p	VCS	273	Phone call, outgoing — 450, John, thanks a lot, Bud.
52	VCS	277	Just missed the number. Hiya, Hon.

EDNY Log 152 Page 1

Day ..... Date 12/12/72

Employee's Name: VERNON L. SWINT

Date Stamp

166-2030 1868

150a

Logs, Dec. 9 to 12, 1972.

Time	Initial	FT IC OG	Activity Recorded
53 P	VS	285	I'll be there. You gonna drive tonight. Hey Mike, answes me. Hey mike!
55 P	VS	300	321, 557.
57 P	VS	301	12-50, 4-50 — laughter
57 P	VS	309	557, — Everybody's Koo-Koo. 557 is on top. Five-five-seven (repeated slowly).
58	VS	315	The new york #131.
00 P	VS	329	"Going out w/Joey's sister."
02 P	VS	337	Three 5's — eight
02 P	VS	339	Monday's date the 11th.
36 P	VS	378	Female voice
57 P	VS	403	Hold it in as long as you can, swallow it again & again.
59 P	VS	416	I can smoke any time I want — — Grass.
05 P	VS	441	Bring taste of this
05 P	VS	443	Porno movie; Mexican Porno; wasn't that great.
15 P	VS	487	Bro-in-law
18 P	VS	512	Happy Anniversary
23 P	VS	536	Door closing

EDNY Log 152 Page 2

Day ..... Date 12/12/72

Employee's Name: VERNON L. Swint

Date Stamp

Logs, Dec. 9 to 12, 1972.

Time	Initial	~~IC~~ OG	Activity Recorded
2 55 pm	jfm	0	Surveillance instituted. Barry and Tony in general comments.
2 59 pm	jfm	11	Barry & Tony discuss money and individuals.
	jfm	49	Radio turned on.
3 17 pm	jfm	114	Clicking sound heard along with radio. Not typed.
3 30 pm	jfm	183	Tony discusses card playing.
3 30 pm	jfm	196	Radio on. Reel stopped.
3 34 pm	jfm	196	Reel on. Clicking sound heard along with radio.
3 42 pm	jfm	217	Radio on. Reel stopped.
4 12 pm	jfm	218	Reel on. Radio on.
4 13 pm	jfm	223	Reel stopped.
4 28 pm	jfm	224	Reel on. Results of horse race on radio.
4 36 pm	jfm	268	Reel stopped. No conversation.
4 52 pm	jfm	269	Reel on. Tony and Barry talking. Indistinct.
5 00 pm	jfm	315	Reel stopped.
5 07 pm	jfm	316	Tony heard along with radio - indistinct.
5 20 pm	jfm	391	Reel stopped. No voices. Radio still on.
5 22 pm	jfm	392	Reel on. Tony and Barry talking. Indistinct.
5 36 pm	jfm	434	Reel stopped. Conversation not pertinent.
5 37 pm	jfm		Radio turned off. Both leave.
5 37 pm	jfm		Surveillance discontinued.

EDNY
Log 1.5.2c Page 1
LR
Day WED. Date 12/13/72

Employee's Name
JAMES F. MITCHELL

Date Stamp

Logs, Dec. 9 to 12, 1972.

Time	Initial	I-1 ~~IG~~ ~~OG~~	Activity Recorded	
:55	FWH	0	Surveillance Instituted Barry & Tony.	
:59	FWH	10	Conversation Concerning Paladino	
04	FWH	47	Radio on reel (Indistinct)	
25	FWH	76	Tony discussing horse racing	
30	FWH	96	Tony Talks about Card playing.	
35	FWH	109	Radio on reel - stopped	✓ 1
49	FWH	109	Reel on - (Garbled)	✓ 1
55	FWH	134	Reel off - radio	✓
00	FWH	134	Reel on (not clear)	2
:04	FWH	162	Reel off - radio	3
:12	FWH	162	Reel on (not clear)	
:15	FWH	168	Reel off - radio	4
:20	FWH	168	Reel on. (not clear)	
:22	FWH	180	Reel off - radio	
:25	FWH	180	Reel on. (not clear)	5
1:27	FWH	188	Reel off radio	
:29	FWH	188	Reel on. (not clear)	6
:33	FWH	192	Reel off. radio	

EDNY 152
Log ..... Page 1

Day Wed Date 12/13/72

Employee's Name

Francis W. Heaney Jr

Date Stamp

153a

Logs Dec. 9 to 12, 1972.

Time	Initial	~~FI IC OG~~	Activity Recorded
:39 pm	RWH	192	Reel on (not clear) | 7
41 pm	RWH	197	Reel off - radio
53 pm	RWH	198	Reel on - | Tony and Barry Talking — (not clear)
01 pm	RWH	248	Reel off | 7
05 pm	RWH	248	Reel on - | Tony and Barry Talking (not clear)
15 pm	RWH	299	Reel off | 8
28 pm	RWH	299	Reel on | Tony and Barry Talking - (not clear)
2 pm	RWH	347	Reel off | 8 Radio Turned off. Both leave.
2 pm	RWH		Surveillance discontinued.

END

Log 152 Page 2

Day Wed Date 12/13/72

Employee's Name: Robert W. Fleming Jr

Date Stamp

Logs, Dec. 9 to 12, 19[illegible]

EDNY 152 Bedroom

Time	Initial	ET.	Activity Recorded
:37 pm	RBL	0	Turned on MISUR
	RBL	1	Telephone rings. Tony answers. Tony talks to unknown subj.
	RBL	7	Tony dials out? No answer. Radio or T.V. is on.
:42	RBL	19	OFF - Tape
:51	RBL	19	ON - Tape
	RBL	20	* Barry enters. Converses w/ Tony, something about wrong number yesterday. Mentions "Joe" N.I gave me.
	RBL	35	*Tony: says there might be a lot of overloads. ✓
	RBL	36	*Barry: Tomorrow won't be so bad. N.I.
	RBL	40	Radio ON
	RBL	82	*Barry mentions Joe BLACK. N.I. 2
	RBL	106	Clicking sound in background like an adding machine 2
	RBL	120	" " " " " " " " 2
	RBL	250	" " " " " " " " 2
	RBL	272	Enter John into apt.
	RBL	278	John talks about getting to work late.
	RBL	285	*Barry: says that's not for you; he didn't have any grass.
	RBL	307	#1 Hear any results yet #2 Sure the 6th.
	RBL	325	Johns says he's going to work.
	RBL	250	MUSIC
	RBL	396	Inaudible
	RBL	401	Exit someone (Barry?) 2

Log Bedroom Page 1

Day Thursday Date 12/14/72

Employee's Name

Robert B. Liesegang

Robert B. Liesegang

Date Stamp

Logs, Dec. 9 to 12, 1972.

EDNY - 152 - Bedroom

Time	Initial	ET.	Activity Recorded
	RBL	410	Inaudible
	RBL	433	John is going to write down directions from (NT) Whitestone Bridge.
	RBL	440	Enter Barry
	RBL	459	Clicking sound in background like adding (NT) machine
	RBL	479	*Talk about playing "439" combination ✓
4:16pm	RBL	498	Tape off - talk inaudible
4:30	RBL	498	Tape ON (NT)
	RBL	525	Clicking sound like adding machine in background.
4:36	RBL	540	Tape off - inaudible
4:45	RBL	540	On
	RBL	546	*Tony: This guy hit the number. ✓
	RBL	571	*Barry calls Tony — "Apples". Talk ensues about NT where house. Massage ETC.
	RBL	616	*Barry: "I'd better call for that number." P
	RBL	632	*Incoming call. Barry gives phone# 499-1949 to caller.
5:01	RBL	657	OFF
5:05	RBL	657	ON
	RBL	715	*Tony asks Barry why he didn't play a particular number.
	RBL	722	Number 933 combination.
	RBL	740	Inaudible
	RBL	750	Barry says he's tired.
	RBL	801	Barry: SIS lent me money - $100.00 N.T.

Log B.R. Page 2

Day Thurs. Date 12/14/72

Employee's Name Robert B. Lusignan

Date Stamp

Logs, Dec. 9 to 12, 1972.

EDNG-152 Bedroom

Time	Initial	FT.	Activity Recorded
	RBL	840	Barry: talks about horse bets. N.I.
	RBL	862	Barry: let's go.
	RBL	871	Barry: 199 the old way
5:37	RBL	912	Off
5:51	RBL	912	ON
5:53	RBL	925	off
5:54	RBL	925	ON —
	RBL	925	Barry — Good night to Tony T
5:55	RBL	926	Off
5:57	RBL	926	ON
	RBL	936	John: See you tomorrow
			Barry: Tomorrow night
	RBL	938	Exit Barry
5:59			Terminated

No typed

Log BR Page 3

Day Th Date 12/14/72

Employee's Name Robert B. Lindsay

Date Stamp

Logs. Dec. 9 to 12, 1972.

EDNY 152

Time	Initial	IC OG	Activity Recorded
34PM			MISUR INSTITUTED
:37	SA	0000	Incoming telephone call. Tony answers. Re unknown individual's arrival.
:51	SA	0010	Barry enters. Discussion re gambling
:55	SA	0027	Continue discussion re gambling. Barry mentions father.
:57	SA	0038	" " mention big guitar player.
:59	SA	0048	" " mention cocaine.
02	SA	0064	Discussion re "payout"
06	SA	0083	" re another album.
:10	SA	0103	Discussion re money. Talk about records.
:14	SA	0122	Discussion re grams in an ounce.
:16	SA	0133	Record playing little talk. Then talk about drums.
:18	SA	0143	Barry talks about seeing Bobby and going to track.
:23	SA	0170	"Play as good as this guy".
:24	SA	0176	Record ends. Another begins.
:25	SA	0178	Barry sings "69..."
:27	SA	0190	Music then tapping sound.
:30	SA	0205	Barry sings in loud voice.
:31	SA	0211	Record end. Mention of Cocaine by Barry.
:35	SA	0236	Mention of new Thunderbird by Barry.
:39	SA	0250	Tony talks about money. John enters.
:40	SA	0258	John talks about horse.
:41	SA	0270	Talks between Tony & Barry re "setting up".
:44	SA	0280	Talk about horses.
:48	SA	0305	Barry indicates he wants to go to work.
:51	SA	0321	Music and garbled talk. Mention of Rocky.
:55	SA	0345	John talks about job. Then personal discussion as they left. Discontinued

Log LIVING Room Page 1

Day THURS Date 12/14/72

Reel 1

8-15 27 AVE APT 309

QUEENS, N.Y.

Employee's Name

SA Gregory HENDRICKSON

Date Stamp

Logs Dec. 9 to 12, 1972.

EDNY 152

Time	Initial	IC OG	Activity Recorded
~~3:57PM~~ 4:00PM	BH	0357	Tony & Barry talk. Noise of door closing. John in personal conversation.
4:03PM	BH	0372	John & Tony talk about cocaine.
4:05PM	BH	0385	John talks about "SMACK"
4:06PM	BH	0394	John gives Tony directions.
~~4:08PM~~ 4:05PM	BH	0400	Someone reenters. Barry singing.
4:10PM	BH	0420	Barry gives directions.
4:13PM	BH	0438	Talk of a combination number and other numbers. John talks about two girls out talk about
4:19PM	BH	0461	Barry mentions gun. John & Barry fighting. Race results on radio.
4:22PM	BH	0474	Started at mention of Christmas bonus.
4:25PM	BH	0487	Barry mentions "free action"
4:30PM	BH	0521	Barry talks about work and grabbing "it" (BONUS)
4:32PM	BH	0537	Tony talks about horses. Barry also
4:33PM	BH	0549	Barry talks of combination of Sal and Martin's money.
~~4:37PM~~ 4:36PM	BH	0576	Talks about horses. Race on radio.
4:40	BH	0579	Tony & Barry discuss gambling debts. Barry talks about various numbers.
4:43PM	BH	0599	Talk about record player.
4:46PM	BH	0622	Barry adds numbers. John talks personal
4:50PM	BH	0632	all three talk about "working girls" and "our house".
4:56PM	BH	0668	Other prostitution activities. John talks about girl friend. Barry talks about $125. Telephone rings. John talks about
5:02PM	BH	0685	guy who called Phyllis. Talk about Joe Black.
5:05PM	BH	0694	Tony mentions two numbers. Tony, John & Barry talk about various numbers.
5:08PM	BH	0720	Talk re numbers continues.

Living Room Log ..... Page 2 BH

Day THURS. Date 12/14/72

Reel 1

8-15 27 AVE APT 3D

QUEENS, N.Y.

Employee's Name: SA GREGORY HENDRICKSON

Date Stamp

159a
Logs, Dec. 9 to 12, 1972.

EDNY 152

Time	Initial	IC OG	Activity Recorded
5:10PM	SA	0742	Barry talks about a $3.00 limit
5:13PM	SA	0760	Barry talks about various numbers. John talks about music.
5:16PM	SA	0773	Music. Barry says he's tried. Tony tells how many hits he has.
5:19PM	SA	0793	Talk about grass.
5:21PM	SA	0809	Barry sings "Jingle Bells". Barry talks about money he owes
5:24	SA	0829	Barry talks about "SKI"
5:26	SA	0848	Barry mentions Rocky Racoon
5:29	SA	0877	Tony talks about man who worked for him.
5:32	SA	0905	Barry sings rain, rain, go away. Music.
5:39	SA	0941	Barry talks about "raise". John talks about job.
5:41	SA	0952	John and Barry talk about "cokse".
5:43	SA	0970	Barry mentions a lot of numbers.
5:48	SA	1017	Tony talks about horse.
5:50	SA	1041	Barry talks about betting.
5:54	SA	1071	John & Barry say goodbye to Tony.
5:55	SA	1079	John & Barry talk: garbled.
5:58	SA	1103	Barry says goodbye to John. Door opens + closes.
5:59	SA	1107	Terminate surveillance.

LIVING ROOM
Log ..... Page 3
Day THURS Date 12/14/72

Employee's Name
SA GREGORY HENDRICKSON

Date Stamp

Reel 1

8-15 27 AVE APT 309
QUEENS NY.

160a

Logs Dec. 9 to 12, 1972.

Time	Initial	IC OG	Activity Recorded
1 30	emd		Initiated one person in apt.
08			Voice is 2nd person chtes
07			Conversation
12			Let's see what we've got here.
15		OG	Barry makes call.
17			Got the results up to the 6th - Barry.
			What the fuck is this note? Barry
21			
23			Barry talks of pay.
26		OG.	Barry - calls OTB -
			John comes in Tony says hi John.
			Apples asked if he went last night.
27			Apples says Joe Black gave me 500 + will give me another 5.
			I recd 2,000.
28			That fucking guy mike.
31			John talks to Barry.
45			Phone from Barry of bag of grass.
50			Barry asks apples what time he'll pick him up in the morning? Ans after 10 AM
52			Talk of getting paid.
			end.

Log 1 Page 1

Day 12/15 Date 12/15/72

Employee's Name

SA E M La Roy

Date Stamp

Logs Dec. 9 to 12, 1972.

Time	Initial	IC OG	Activity Recorded
3 55			Barry We'll be done real early. Quarter of a 4 was still in.?
10			Barry returns -
32			Ment. on Nicky Ryan.
4 40 P			Mention of Joe Black.
4 47			Get the number will ya. Apples says.
4 48		OG.	Phone call.
16 2 P			Barry Brooklyn Joe Black. Apples said (651-6862) he might be in Queens.
53			364 963 Barries says -
54			Barry mentions "Joey".
55			Barry says if Joe goes needanother man in that office. Barry is chief here.
13		IC	Barry answers.
16		OG.	Barry trying to get Joey.
5 17		IC	Barry takes message.
5 19			Barry mentions totals.
6 20			Terminate with departure.

Log 11 Page 2

Day ..... Date 12/13/72

Employee's Name: E M Lahey.

Date Stamp

Logs Dec. 9 to 12, 1972.

Time	Initial	FT ~~OG~~	Activity Recorded
7:45 pm	Reitt	1	Surveillance instituted
:10 pm	Reitt	9	Barry and Tony Conversee — not clear.
:15 pm	Reitt	38	Reel off
:18 pm	Reitt	38	Reel on - Barry mentions House call results.
:21 pm	Reitt	43	Reel off
24 pm	Reitt	43	Reel on - Barry To Tony Horse racing .. Radio on -
34 pm	Reitt	114	Reel off
:40 pm	Reitt	114	Reel on - Tony to Barry (not clear)
:41 pm	Reitt	121	Reel off
1:35 pm	Reitt	121	Reel on - John 06 call to Unfernale
1:39 pm	Reitt	151	Reel off
1:20 pm	Reitt		Surveillance discontinued

FBI 157
Log 1 Page 1
Day FRI Date 12/15/72
BEDROOM

Employee's Name
SA FRANCIS W. HEANEY JR.

Date Stamp

Logs Dec. 9 to 12, 1972.

Time	Initial	FT IC OG	Activity Recorded
11p	VCS	00	Misur instituted – Entry into Apt. Spoke of Phyllis, Barry & unknown.
1?p	VCS	27	Clicking sound in background.
1:35p	VCS	54	whispering "Phil," "Phil," Barry talking w/Phyllis.
3:36p	VCS	62	"Rocky"
3:37p	VCS	68	Discussion of Chicken Delight
3:37p	VCS	72	Barry said "Rocky"
3:40p	VCS	80	Phyllis talking to cat
3:42p	VCS	92	"Rocky" said Barry
3:44p	VCS	103	alright, "Rocky" → Barry; discussion of Chinese food.
3:53p	VCS	138	Door slammed; Phyllis no longer audible
3:55p	VCS	140	Barry → "NO overlooks" ✓
4:14p	VCS	144	Discussion of cars
4:20p	VCS	164	Clicking sound
4:34p	VCS	168	Phyllis returns
4:40p	VCS	197	Work more important. . . . → ?
4:43p	VCS	212	Rocky, want a little sodie (sic)? → Barry
5:19p	VCS	226	(Phone call); 198, 429 → Barry ✓
5:21p	VCS	238	We're missing some work → "
5:30p	VCS	243	Incoming phone call, answered by Phyllis. John calling. Barry speaking on phone.
5:31p	VCS	249	198, you're out; Barry on phone. ✓
6:03p	VCS	256	Phone call, incoming, answered by Phyllis.
6:05p	VCS	265	Phyllis on phone
6:15p	VCS	289	In debt from trip to Fla. w/John; pay John's way too → Phyllis
6:44p	VCS	306	Roakonary Blvd, Rose's House

EDNY Log 152 Page 1

Day Sat. Date 12/16/72

Employee's Name: VERNON L. Swint

Date Stamp

Logs Dec. 9 to 12, 1972

Time	Initial	~~Tape~~ OG	Activity Recorded
54 p	VLS	325	Outgoing call, Barry
101p	VLS	343	" ", Rocky
102p	VLS	345	Leaving, now → Rocky on phone.
105p	VLS	365	Barry & Phyllis discussing John.
106p	VLS	375	Barry talking about Ernest this etc.
112p	VLS	379	We're thinking of leaving → Barry
112p	VLS	408	She's not downstairs yet..... Apples was right → Barry.

EDNY
Log LSA Page 2

Day Sat Date 12/16/72

Employee's Name

VERNON L. SWINT

Date Stamp

165a
Logs Dec. 9 to 12, 1972.

Time	Initial	~~FT.~~ ~~IC~~ ~~OG~~	Living Room Activity Recorded
3:11pm	CRG	0	MISUR INSTITUTED.
3:11pm	CRG	1'	Apartment entered by Barry and unknown male.
3:16pm	CRG	23'	Unknown said you should keep an extra machine. (Barry) Apples don't use a machine. If you're going to travel.....
3:18pm	CRG	36'	75 dollars (Barry).....
3:30pm	CRG	96	Unknown talking.
3:32pm	CRG	108	(Barry) Think we should call an order...
3:35pm	CRG	127'	Barry and Phyllis talking.
3:36pm	CRG	129'	(Barry) Allright Rocky, I'm going to try to find this place. Phyllis this is Rocky.
3:36pm	CRG	133'	Dialing phone.
3:37pm	CRG	136'	Phyllis and Barry talking about food.
3:42pm	CRG	160'	Barry mentions Rocky.
3:44pm	CRG	175'	(Barry) Rocky liked your place when he came in...
3:45pm	CRG	178	(Rocky) Should pick them up where I work. (Had talked about shades).
3:47pm	CRG	189'	(Phyllis) Apples is the only one who appreciates me.
3:53pm	CRG	220	Door closes
3:54pm	CRG	230	Barry and Rocky talking.
3:55pm	CRG	233'	(Barry) overcharge, overcharge..... He's been helping out....
3:56pm	CRG	238'	(Barry) Pick up at 4:or o'clock... Right around the corner....

Log EDNY 152 Page 1
Day SAT ..... Date 12/16/72

Employee's Name: Charles Reed Zweener

Date Stamp

Logs Dec. 9 to 12, 1972.

Time	Initial	FT. ~~OG~~	Living Room Activity Recorded
.02pm	CRQ	273	(Barry) I'm going down to pick up Rocky....
04pm	CRQ	284	Barry and Rocky talking.
15pm	CRQ	289	Door closes.
11pm	CRQ	300	Door slams.
13pm	CRQ	310	Barry talking.
17pm	CRQ	332	Barry and Rocky talking about Christmas...
1pm	CRQ	335	(Barry) There's some more in here.....
20pm	CRQ	353	(Barry) Let me know when it's five.....
24pm	CRQ	378	Barry talking.
28pm	CRQ	401	(Barry) overlook..✓
:34pm	CRQ	435	Phyllis enters apartment.
34pm	CRQ	438	Rocky mentions work.
:35pm	CRQ	441	(Barry) We'll clean this table....
36pm	CRQ	447	(Rocky) Any more P..... ?
:36pm	CRQ	448	(Rocky) you want me to do this ~~one~~ here ~~CEG~~
:37pm	CRQ	452	(Barry) set away from my work.
:37pm	CRQ	455	(Phyllis) you could put the work on the other ✓ side.
:38pm	CRQ	457	(Rocky) mentions Apples...
:39pm	CRQ	470	(Barry) ..... the work is more important than us....
1:40pm	CRQ	475	(Phyllis) .... mess up the work.
:46pm	CRQ	504	(Phyllis) .... you told me 691 came in... ✓

Log CONT 152 Page 2

Day SAT. Date 12/16/72

Employee's Name Charles Reid Pressman

Date Stamp

Logs Dec. 9 to 12, 1972.

Time	Initial	Ft. ~~tc~~ ~~OG~~	Living Room Activity Recorded
4:50pm	CRG Beep	531	(Phyllis) when you come in it's clear, when you leave it's not.
:50pm	CRG	533	(Barry) .... the work ....
: pm	CRG	560	Rocky talking.
: pm	CRG	562	(Barry) 40 dollars a day... he has to pay out of his own pocket....
:58pm	CRG	584	(Rocky) you wanted to know when it's five....
:04pm	CRG	629	Ring that out.... (Barry)
:08pm	CRG	661	(Barry) Rocky's got to finish up the work. ✓
:17pm	CRG	723	(Barry) (... Oppka).
:18pm	CRG	732	(Barry) Wash my hands ..... and resume.
:19pm	CRG	737	(Barry) ..... 198 ..... ✓
5:22pm	CRG	753	(Barry) ... the work....
5:29pm	CRG	816	Incoming call. Phyllis called Barry to phone saying it's John after Barry asked who it was.
:31pm	CRG	826	(Barry) On Phone .... 198, you're out. ✓
:31pm	CRG	831	Phyllis takes phone.
:37pm	CRG	873	(Barry) No, that's late... We're late today.....
5:48pm	CRG	970	(Rocky) you want me to write up.... (Barry) Write it up.
5:48pm	CRG	979	(Barry) 198 and .... ✓

EDNY Log 152 Page 3

Day SAT. Date 12/16/72

Employee's Name Charles Reid Queen

Date Stamp

Logs Dec. 9 to 12, 1972.

Time	Initial	~~Ft.~~ OG	LIVING Room Activity Recorded
3pm	CRS	1016	Barry and Rocky talking.
4pm	CRS	1027	(Barry) ... 197 you got.... ✓
6pm	CRS	1051	(Rocky) .... Check this figure. ✓
7pm	CRS	1060	(Barry) .... red pen...
3pm	CRS	1124	Incoming call.
1pm	CRS	1127	Phyllis answers phone.
4pm	CRS	1131	(Barry) ... weekly...
7pm	CRS	1165	(Barry) .. on this book ... five dollars....
38pm	CRS	1174	(Barry) We ain't going to have any bet. ✓
6pm	CRS	1181	(Barry) Three o'clock every day...
10pm	CRS	1187	Discussion about money and work between Rocky and
↓		↓	Barry..
12pm	CRS	1207	
22pm	CRS	1329	Barry + Rocky talking.
23pm	CRS	1340	(Barry) .... be rid of an office man...
28pm	CRS	1423	End of Reel 1.
30pm	CRS	0	Reel 2 started.
6:31pm	CRS	7	(Rocky) 198.....
6:44pm	CRS	70	(Rocky) Barry, Can you drop me off.....

Log 152 Page 4

Day SAT. Date 12/16/72

Employee's Name Charles Reed Freeman

Date Stamp

Logs Dec. 9 to 12, 1972.

Time	Initial	~~EC~~ Ft. ~~OG~~	Living Room Activity Recorded
:53p	CRB	120	Barry - outgoing call.
:54p	CRB	128	Barry off phone.
:00p	CRB	150	(Barry) Only one hit Rocky?
:02p	CRB	154	(Rocky) 65 cents on 198. ✓
01p	CRB	159	(Rocky) ... make a call
:07p	CRB	191	(Barry) Another losing week.. ✓
:08p	CRB	194	(Barry) We're thinking of having you....
:15p	CRB	241	Door slams.
:30p	CRB		MISUR ended.

EDNY Log 152 Page 5

Day SAT Date 12/16/72

Employee's Name Charles Reid Spencer

Date Stamp

Logs Dec. 9 to 12, 1972.

Time	Initial	H TC OG	Activity Recorded
:30 pm	dlc		music instituted. Barry enters apartment and discusses track
:36 pm	dlc	17	Barry & Tony discuss race re-creation on Radio.
:47 pm	dlc	53	Discuss OTB prices
:59 pm	dlc	111	Discuss race re-creation on Radio
:20 pm	dlc	121	Barry re-enters apt. Conversation garbled by radio
:25 pm	dlc	143	Discuss race re-creation on Radio
:47 pm	dlc	233	Apples mentions Joe Black ✓
:57 pm	dlc	265	Discuss race re-creation on Radio
1:12 pm	dlc	342	Barry asked "Where's the ribbons?" ✓
1:23 pm	dlc	401	Barry says "Nobody knows yesterday's old way" ✓
:25 pm	dlc	414	Joe Black mentioned
:27 pm	dlc	426	Apples talking on phone to Joe Black
:33 pm	dlc	460	Discussion re. number ✓
:34 pm	dlc	467	Apples talks about Jimmy Napp + Joe Black ✓
:40 pm	dlc	482	Incoming phone call
04 pm	dlc	485	Phyllis enters apt.
:14 pm	dlc	500	Phyllis + Apples discuss someone with "big mouth"
1:14 pm	dlc	507	Apples mentions ribbons to Phyllis
:17 pm	dlc	517	Barry re-enters apt.
1:18 pm	dlc	522	Barry + apples discuss "E" Brands and argue about being late to work

EDNY
Log 12-2 Page 1

Day Tues Date 12/19/72

Living Room
Reel #1

Employee's Name

David J. Clark

Date Stamp

Logs Dec. 9 to 12, 1972.

Time	Initial	~~10~~ 08	Activity Recorded
21 pm	dle	548	Apples + Barry discuss way to get money from Mikey
25 pm	dle	566	Discuss number ✓
26 pm	dle	575	Discuss hits ✓
40 pm	dle	618	Discuss race track
41 pm	dle	626	Discuss "Lefty" + Joe "Paladeres" ✓
45 pm	dle	650	Discuss College Football games.
48 pm	dle	675	Discuss Pro Football games
55 pm	dle	723	Barry said "My machine busted"
13 pm	dle	783	Barry talks to Mickey on phone. Discuss meet.
24 pm	dle	915	Apples asked Barry if he was going to meet Kid
29 pm	dle	970	Barry re-enters apt.
55 pm	dle	965	Music ended.

Log EDNY 152 Page 2

Day Tu-Th Date 12/19/72

Living Room

Reel #1

Employee's Name David J. Clark

Date Stamp

Logs Dec. 9 to 12, 1972.

Time	Initial	IC OG	Activity Recorded
:58PM	[redacted]	0	Music begun. "Tony Apples" and Barry Russo converse about fish
:04PM	[redacted]	19	Tony talks about OTB
:16PM	[redacted]	48	Tony mentions Rocky ... Joe Black.
:21PM	[redacted]	52	Apples & Barry converse.
:15PM	[redacted]	62	Outgoing telephone call.
:22PM	[redacted]	78	Garbled.
:27PM	[redacted]	104	Radio turned down. TONY speaks, on telephone.
:33PM	[redacted]	133	Pause in conversation. Tony talks.
:04PM	[redacted]	150	Tony talks to female
:10PM	[redacted]	173	Tony speaks to female about food.
:13PM	[redacted]	176	Tony talks about someone who got him in trouble. Barry comes in.
:19PM	[redacted]	206	Pause. Then mention of John.
:25PM	[redacted]	238	Tony & Barry mention various numbers. Talk about food
:26PM	[redacted]	246	Mention of Cuts Phyllis talks about 2 & plain ✓
7:35PM	[redacted]	254	MISUR END.

BEDROOM
Log ..... Page 1

Day TUES. Date 12/12/72
EDNY 152
8-15 27 AVE APT 309
QUEENS, N.Y.

Employee's Name

SA GREGORY HENDRICKSON

Date Stamp

Reel 1

Logs Dec. 9 to 12, 1972.

EDNY – 152

Time	Initial	~~IN~~ OFT. OG	Activity Recorded
3:11 pm	RBL	-0-	Tape on
	RBL	1	Music in background, no voices
3:14	RBL	7	clicking sound, like an adding machine, in background
3:17	RBL	25	OFF
3:32	RBL	25	ON -
3:32	RBL	26	Outgoing music
3:37	RBL	47	OFF
3:54	RBL	47	ON
3:54	RBL	47	*Conversation by Tony about getting money from Jimmy Napp, mentions Jimmy's friend who sold him coke, came back tonight for the money. Tony + Barry converse.
4:08	RBL	125	Call someone from Apt.
4:09	RBL	132	OFF
4:13	RBL	132	ON - Someone re-enters Apt.
			Music
4:28	RBL	216	Music
4:31	RBL	286	*Barry to Tony: "528" ✓
4:46	RBL	320	*Tony: Joey
4:50	RBL	341	*Barry: Rocky
5:11	RBL	474	*Barry: Seize actual today!! ✓
5:19	RBL	524	*2cc bill, going to see Jimmy → ✓

Log Living R.O.M. Page 1

Day Wed Date 12/20/72

Employee's Name

SA Robert B. Liesegang

Robert B. Liesegang

Date Stamp

Logs Dec. 9 to 12, 1972.

EDIYY- 152

Time	Initial	~~VC~~ ET. ~~OG~~	Activity Recorded
5:22	RBL	542	*173 - $, mentions other numbers + amounts ✓ left.
5:35	RBL	634	Cut someone
5:36	RBL	640	OFF

Log Living Room Page 2

Day Wed. Date 12/6/72

Employee's Name

SA Robert B. Lieszgang

Date Stamp

175a

Logs Dec. 9 to 12, 1972.

Time	Initial	EST MC OG	Activity Recorded - Living Room
2 58 PM	VCS	00	Mikus instituted
2 58 P	VCS	04	Mentioned Jimmy Nap ✓
3 03 P	VCS	30	Barry - Apples discuss Rocky.
3 05 P	VCS	38	" " discuss racing.
3 09 P	VCS	59	Numbers 661 ✓
3 11 P	VCS	72	Barry - Apples discuss races.
3 19 P	VCS	110	Horses
3 20 P	VCS	119	Overlooks
3 25 P	VCS	141	Barry-Apples discuss time they get started.
3 34 P	VCS	188	Joe Black - Rocky mentioned.
3 35 P	VCS	195	Apples talks about "yours father"
3 36 P	VCS	204	Apples mentions pay.
3 37 P	VCS	207	Joe Black, Mikey Jr, & Rocky, mentioned in conversation. ✓
3 38 P	VCS	211	Barry - Apples in conversation; mention - Joe Rodino (DH)
3 44 P	VCS	250	" " " " ; mention Shotgun, Frankie, Eugene, Ski.
3 50 P	VCS	281	Overlook
3 55 P	VCS	312	Claim, hit
4 00 P	VCS	338	Bundles mentioned
4 13 P	VCS	369	Claims
5 02 P	VCS	684	Hit on 522; claim ✓
5 04 P	VCS	702	Apples mentions the number. ✓
5 11 P	VCS	758	The Old Wig mentioned.
5 13	VCS	771	10,000 worth of hits

EDNY Log 1552 Page 1

Day Tu. Date 12/12/72

Employee's Name: Vernon C. Swint

Date Stamp

Logs Dec. 9 to 12, 1972.

Time	Initial	FBI QG	Activity ~~Recorded~~ Living Room
5 35 P	VCS	940	Phyllis mentioned in conversation
5 38 P	VCS	971	Laurel - N.Y.
5 50 P	VCS	1,077	Barry - Apples discuss the members.
6 01 P	VCS	1190	Barry makes phone call.
6 04 P	VCS	1201	Mikes discontinued

EDNY Log Divid. Page 62

Day Thurs. Date 12/21/72

Employee's Name

Vernon L Smith

Date Stamp

Logs Dec. 9 to 12, 1972.

Time	Initial	~~FT~~ ~~IC~~ ~~OG~~	Activity Recorded
1.33 pm	Reff	001	Surveillance Instituted
:17 pm	Reff	001	Barry Cinnie
:18 pm	Reff	006	O.G. Call (No conversation)
:20 pm	Reff	017	O.G. Call (No conversation)
:27 pm	Reff	054	Tony To Barry Conversation about Joe Black and Mickey Nine.
:40 pm	Reff	122	O.G Call made by Barry.
:50 pm	Reff	161	Reel off - (Personal)
:57 pm	Reff	161	Reel on - Barry to Tony - Finish up of 6. O'clock
2:00 pm	Reff	207	Reel off
2:08 pm	Reff	207	Reel on O.G. Call
2:12 pm	Reff	230	O.G. Call
2:16 pm	Reff	250	Phyllis and John cinnie
2:40 pm	Reff	395	Reel off
2:41 pm	Reff	395	Reel on
2:50 pm	Reff	459	O.G. Call
2:58 pm	Reff	500	Reel off
3:00 pm	Reff	500	Reel on
3:35 pm	Reff	688	Reel off
3:36 pm	Reff	688	Reel on O.G call
4:1 pm	Reff	1038	Surveillance Discontinued

FDNY 152
Log 1 Page 1
Day FRI Date 12/22/72

Employee's Name
SA FRANCIS W. HEANEY JR.

Date Stamp

Logs of Monitoring Agent

Jan. 15, 1973 to Jan. 31, 1973.

Time	Initial	~~FT 10 66~~	Activity Recorded
3:10 pm	RHH	1	Surveillance Instituted
3:12 pm	RHH	5	Radio Turned on; Tony speaking (inaudible)
3:14 pm	RHH	9	Reel off.
3:20 pm	RHH	9	Reel on
3:22 pm	RHH	17	Reel off - inaudible
3:35 pm	RHH	17	Reel on -
3:42 pm	RHH	47	Reel off - inaudible
3:44 pm	RHH	47	Reel on
3:46 pm	RHH	55	Reel off - inaudible
3:59 pm	RHH	55	Reel on
4:06 pm	RHH	63	Reel off - inaudible
4:12 pm	RHH	63	Reel on - Barry - IG. call (Renaud).
4:23 pm	RHH	114	Reel off
4:25 pm	RHH	114	Reel on - Barry and Tony - discussing work.
4:52 pm	RHH	253	Reel off
5:16 pm	RHH	253	Reel on - Radio on
5:32 pm	RHH	330	Reel off - inaudible
5:33 pm	RHH	330	Reel on
5:35 pm	RHH	344	Reel off - inaudible
5:39 pm	RHH	344	Reel on - Barry and Tiggles discuss work
5:51 pm	RHH	416	Reel off - inaudible

Log 1 Page 1

Day MON. Date 1/15/73

Employee's Name: SA FRANCIS W. HEANEY JR.

Date Stamp

Logs of Monitoring Agent
Jan. 15, 1973. to Jan. 31, 1973.

Time	Initial	FI ~~16~~ ~~06~~	Activity Recorded
5:54pm	Quff	416	Reel on - Barry and Cippler - (inaudible) Radio on.
:57pm	Quff	438	Reel off.
:59pm	Quff	438	Reel on - Tony To Barry. (inaudible)
:10pm	Quff	513	Reel off
:18pm	Quff	513	Reel on - Radio on (inaudible)
:21pm	Quff	530	Reel off
:29pm	Quff	530	Reel on - Tony To Barry.
:31pm	Quff	543	Reel off - surveillance discontinued

Log ..... Page 2
Day MON. Date 1/15/73

Employee's Name
SA FRANCIS W. HEANEY JR.

Date Stamp

Logs of Monitoring Agent

Activity Recorded - Living Room

Jan 15, 1973 to Jan 31, 1973.

Time	Initial	FI KC OG	Activity Recorded
2 55 p	VCJ	00	Apples entered apt. - MIZUR INSTITUTED
3 30 p	VCJ	01	Barry arrived.
3 37 p	VCJ	23	Barry on telephone.
3 39 p	VCJ	25	~~Barry~~ Colette arrived.
3 42 p	VCJ	47	Barry & Colette in conversation.
3 45 p	VCJ	66	Apples & Barry discuss cards - poker.
3 48 p	VCJ	78	Barry asks Colette if she knows how to work machine
3 50 p	VCJ	87	" & Apples discuss cigars.
3 54 p	VCJ	113	Barry dialing telphone.
3 55 p	VCJ	119	" on telphone.
4 18 p	VCJ	184	Barry departed.
4 36 p	VCJ	191	Footsteps, door closing.
4 48 p	VCJ	218	Barry & Apples conversing
4 50	VCJ	229	Barry & female in conversation.
4 54	VCJ	251	Barry speaking about claims.
5 8 p	VCJ	271	651-862 - 651-6862 - Phone #
5 00 p	VCJ	281	Barry talking on Phone
5 03 p	VCJ	302	Discussion of "book."
5 05 p	VCJ	315	"News" & "Post"
5 08 p	VCJ	334	"Book" in Barry's conversation.
5 28 p	VCJ	444	Apples & Barry conversing re telphone.
5 30 p	VCJ	462	# for Sat., Fri.
5 37 p	VCJ	508	682 & Barry's # didn't win
5 48 p	VCJ	579	Phyllis arrived.
5 57 p	VCJ	637	Barry left
6 18 p	VCJ	779	" & checking acc't
6 36 p	VCJ	923	Ribbons
6 37 p	VCJ	931	Hit fire Rocky

EDNY Log 154 Page 1

Day Tues. Date 1/16/73

Employee's Name

VERNON L. SWINT

Date Stamp

Logs of Monitoring Agent
Jan. 15, 1973 yo Jan. 31, 1973.

Time	Initial	TC / OG	Activity Recorded - Living Rm
6:40 p	VG	958	Barry on players, speaking of ppl who play #'s
6:41 p	VG	966	Barry - IRS, Probation
6:42 p	VG	984	MISWR Discontinued

EDNY
Log 154 Page 2
Day Tues. Date 1/16/73

Employee's Name

Keaven L. Swint

Date Stamp

Logs of Monitoring Agent Jan 15, 1973 to Jan 31. 1973.

Time	Initial	IC OG	Activity Recorded SLOW SPEED
2:59	RWB		TESNE INSTITUTED
3:12	RWB		BARRY & APPLES STARTED TALKING, CONVERSATION INAUDIBLE. 0000
			0017 Talking about money owed and money being paid. Conversation inaudible.
			0032 Conversation about some Clinicae individuals being visited for narcotics.
1:22 PM	RWB	IC	0045 Phone rang. wrong number.
1:30 PM	RWB		0062. Conversation with Colette not recorded.
3:31 PM	RWB		0065 - Conversation regarding figures. (inaudible)
3:38 PM	RWB		0079 - 0086 Inaudible.
3:40 PM	RWB	OG	0086 - 0089. Busy #.
3:40 PM	RWB	OG	0091 - 0091 Not recorded.
4:17 PM	RWB	IC	0091 - Phone call. Inaudible. 0102
4:28 PM	RWB	—	Conversation not recorded.
4:29 PM	RWB	—	0102 - Conversation inaudible. Barry says he will only be gone five minutes. Barry leaves apt.
4:39 PM	RWB	—	Barry returns (0108) Inaudible conversation between Barry and Apples. (0123)
4:58 PM	RWB		0123 Conversation regarding figures in the books 0127
5:10 PM	RWB		0127 Door bell rang. Colette at the door. No additional conversations recorded.
5:13 P	RWB		0134 Conversation regarding balances. (inaudible T.V. ON. 0141
5:22 P	RWB		0141 Inaudible Conversation between Barry & Apples 0144

EDNY Log 154 Page 1

Day WED Date 1/17/73

REEL # 1

Employee's Name

RICHARD W. BAKER, JR.

Date Stamp

Logs of Monitoring Agent

Jan. 15, 1973 to Jan. 31, 1973.

Time	Initial	IC OG	Activity Recorded
54 5/P	Rabb	—	0144 Barry "Come On let's Go" — No further Conversation recorded. 0158 appears left the apt. No Conversation recorded 0158 — 0168
03/P	Rabb	—	Barry leaves Apt. for the evening.

EDNY Log 154 Page 2

Day WED Date 1/17/73

REEL # 1

Employee's Name

RICHARD W. BAKER, JR.

Date Stamp

Logs of Monitoring Agent
Jan. 15, 1973 to Jan. 31, 1973.

Time	Initial	IC OG	Activity Recorded
2:55PM	[illegible]		MISUR BEGUN
3:04PM	[illegible]	000	Voice heard. Inaudible conversation.
3:07PM	[illegible]	003	Door opened.
3:20PM	[illegible]	010	Door opens: Barry Russo speaks to Agples. Talk about horse bet.
3:25PM	[illegible]	038	Barry mentions Bucco's game.
3:28PM	[illegible]	049	Barry mentions Mikey's game.
3:32PM	[illegible]	072	Barry talks about a Camp or pastel.
3:35PM	[illegible]	083	Agples talk about Shotgun betting number.
3:40PM	[illegible]	113	Talk about lawyer "we use" Mentions Patty Rossetti and Joe Paladino
3:48PM	[illegible]	154	Barry mentions driving around a lot — Bobby's ~~House~~.
4:01PM	[illegible]	227	Tony Agples talks about a number.
4:13PM	[illegible]	295	Tony talks about overlooks. Also about BOBBY.
4:16PM	[illegible]	309	Barry mentions Joe Paladino.
4:19PM	[illegible]	327	Barry answers telephone.
4:35PM	[illegible]	427	Door closes after Barry says "See you later"
4:50PM	[illegible]	427	Barry talks.
5:02PM	[illegible]	498	Barry mentions ~~22~~ 88 a number then "old way"
5:09PM	[illegible]	552	~~Bill~~ Tony mentions overcharge.
5:16PM	[illegible]	596	Talk about certain heavy bets.
5:26PM	[illegible]	675	Tony talks about parking ticket.
5:37PM	[illegible]	754	Tony tells Barry to get number. Barry gives number to Agples.
5:41PM	[illegible]	784	Tony asks Barry if he got number. Barry "called about placing" bet on basketball game.
5:47PM	[illegible]	828	Barry talks about placing bet on basketball game.
6:00PM	[illegible]	931	Mention of Rocky.
6:06PM	[illegible]	1000	Talk of certain "hits".
6:12PM	[illegible]	1047	Mention by Barry of seeing Bobby ~~tomorrow~~,
6:15PM	[illegible]	1080	Agples says goodbyes. Door opens & closes.
6:17PM	[illegible]	1087	Misur terminated.

Log ..... Page 1
Day TH RS. Date 1/18/73
EDNY 154
8-15 27 Ave APT 309
Queens, N.Y.

Employee's Name
SA GREGORY HENDRICKSON

Date Stamp

Reel 1

Logs of Monitoring Agent

Jan. 15, 1973 to Jan. 31, 1973.

Time	Initial	File ~~OG~~	Activity Recorded
3 26 P	jfm	1	Barry heard. Reel on. TV on in background.
3 30 P	jfm	24	Reel stopped. No conversation.
3 31 P	jfm	25	Reel on. TV continues in background. Clicking sound also heard.
3 33 P	jfm	33	No conversation. Reel stopped.
3 36 P	jfm	34	Apples & Barry talking. Reel on.
3 40 P	jfm	102	Reel stopped. No conversation.
4 22 P	jfm	103	Apples makes brief comment. Reel on.
4 22 P	jfm	106	Reel stopped. No conversation.
4 49 P	jfm	107	Apples & Barry in brief conversation. Reel on.
4 51 P	jfm	115	Reel stopped. No conversation.
4 53 P	jfm	116	Reel on. Apples talking.
4 54 P	jfm	125	Reel stopped. No conversation.
4 58 P	jfm	126	Apples & Barry in brief conversation. Reel on.
5 01 P	jfm	137	Reel stopped. No conversation.
5 02 P	jfm	138	Apples & Barry in brief conversation. Reel on.
5 03 P	jfm	144	Reel stopped. No conversation.
5 21 P	jfm	145	Apples speaks briefly. Reel on.
5 23 P	jfm	154	Reel stopped. No conversation.
5 25 P	jfm	155	Barry and Apples talking. Reel on.

Log EDNY/154 Page 1

Day FRIDAY Date 1/19/73

Employee's Name: JAMES F. MITCHELL

Date Stamp

Logs of Monitoring Agent
Jan. 15, 1973 to Jan. 31, 1973.

Time	Initial	FT IC OG	Activity Recorded
1532	jfm	185	Reel stopped. No conversation.
1543	jfm	186	Reel on.
1548	jfm	210	Reel stopped. No conversation.
1554	jfm	211	Reel on. Barry talking.
1717 P	jfm	228	Reel stopped. No conversation.
1759 P	jfm	229	Reel on. Barry & Apples talk briefly.
6021 P	jfm	240	Reel stopped. No conversation.
6041 P	jfm	241	Reel on. Apples leaves.
6041 P	jfm	244	Reel stopped.

EDNY 154
Log ..... Page 2
Day FRIDAY Date 1/19/73

Employee's Name
JAMES F. MITCHELL

Date Stamp

Logs of Monitoring Agent

Jan. 15, 1973 to Jan. 31, 1973.

Time	Initial	Ft. ~~16~~ 08	Activity Recorded
2:45p	CRG		MISUC INSTITUTED.
2:52p	CRG	2	Apartment entered. Female uses phone. (Phyllis)
3:02p	CRG	6	Apartment entered. Phone hangs.
3:03p	CRG	11	"Apples" and Phyllis talking.
3:08p	CRG	28'	"Apples" talking about argument and Barry.
3:13p	CRG	54'	Apples talking about truck business.
3:13p	CRG	55'	Barry entered. All talk.
3:21p	CRG	95'	Barry talking.
3:23p	CRG	104'	Barry talking of money.
3:24p	CRG	110'	Late work.
3:29p	CRG	140	Barry mentions Biggie.
3:33p	CRG	156	Barry mentions Rocky.
3:40p	CRG	194	Barry & "Apples" talking.
3:40p	CRG	196	Barry - what was yesterday's number?
3:41p	CRG	202	Hits ... overlooks....
3:43	CRG	212	"Apples" talking about work and men. Mentions Jimmy Jr.
3:46p	CRG	228	Phyllis leaves.
3:48p	CRG	272	Colette enters. All talk.
4:12p	CRG	333	Barry & Apples talking.
4:14p	CRG	343	Barry - ..Finish the W? ..

EDNY Log 154 Page 1

Day SAT. Date 1/20/73

Employee's Name SA Charles Reid Zeeman

Date Stamp

Logs of Monitoring Agent

Jan. 15, 1973 to Jan. 31, 1973.

Time	Initial	FT. ~~66~~	Activity Recorded
:17pm	CRS	360	Barry and Apples talking.
:31pm	CRS	445	Barry talking to "Apples". "Apples" leaves.
:40pm	CRS	465	"Apples" in talking to "Barry" Apples apparently using phone.
:49pm	CRS	524	"Apples" talking.
:19pm	CRS	697	Barry .... old way...
:48pm	CRS	811	Barry & "Apples" talking.
:49pm	CRS	817	643.... "Apples" & Barry talking.
:51pm	CRS	831	"Apples" – what's the other one Barry?
:26pm	CRS	888	Barry & "Apples" discussing number.
1:29pm	CRS	920	Joe Paladino (ph) discussed..
1:30pm	CRS	925	phone rings.
1:32pm	CRS	942	(Barry) what's Joe Paladino's (ph) number? .....
1:33pm	CRS	953	"Apples" – Joe Paladino (ph) there?...
1:34pm	CRS	967	"Apples" – It's busy.
1:37pm	CRS	981	Barry & "Apples" talking.
1:38pm	CRS	993	Barry –.... Going to buy new Thunderbird.....
1:40pm	CRS	1010	Barry – mentions money.
6:48pm	CRS	1072	"Apples" leaves. Barry and Colette leave.
7:15pm	CRS	1126	End of tape.

Log EDNY 15 Page 2

Day SAT. Date 1/20/73

Employee's Name SA Charles Reid Queens

Date Stamp

EDNY-154 SA Liesegang

Living Room Logs of Monitoring Agent

Jan. 15, 1973 to Jan. 31, 1973.

Time	Initial	~~ES~~ ~~SS~~ F7	Activity Recorded
:09 pm	RBL	0	ON
.09	RBL	2	Barry talks about contacting gonorhea
:10	RBL	8	Loud music
:21	RBL	61	*Tony Mentions Joe Paladino, Joe Blah + ? (garbled) (shotgun?)
:25	RBL	86	loud music continues
3:32	RBL	125	*Barry mentions motorcycle accident.
3:37	RBL	146	*Mentions names?
3:41	RBL	171	OFF - music too loud
3:43	RBL	171	ON
3:43	RBL	172	OFF - music too loud
3:56	RBL	172	ON
4:07	RBL	222	OFF - music loud
4:19	RBL	222	ON
4:34	RBL	307	OFF-
4:48	RBL	307	ON
4:56	RBL	356	Barry mentions "old way"
5:07	RBL	430	Music apparently off
5:10	RBL	441	*Barry mentions "717" handle not old way
5:16	RBL	481	*Tony says he told someone? they'd be there @ 6:30
5:30	RBL	577	Off
5:38	RBL	577	ON
5:41	RBL	596	*Tony says "get that # & we'll get out"
5:44	RBL	615?	* Barry gives Tony the #'s 585 and 598
5:49	RBL	695	*Barry mentions #592.
5:54	RBL	681	*Buddy?
5:59	RBL	719	*Barry mentions having worked @ this place before
6:00	RBL	729	Talk about # & possible action

EDNY Log 154 Page 1

Day 1/23 Date 16 Tuesday

Employee's Name SA Robert B. Liesegang

Date Stamp

Logs of Monitoring Agent

Jan. 15, 1973 to Jan. 31, 1973.

Time	Initial	Sec	Activity Recorded
			Living room EDNY 154
:06	RBL	783	Barry mentions # 888
:14	RBL	850	OFF

Log EDNY 154 Page 2

Day Tues. Date 1/23/73

Employee's Name SA Robert B. Heegaing

Date Stamp

Logs of Monitoring Agent

Jan. 15, 1973 to Jan. 31, 1973.

Time	Initial	~~FI IG~~ OG	Activity Recorded
17 P	Quit	01	Surveillance instituted, Reel on
36 P	Quit	87	Bari To Cappler discussing Branches and money.
45 P	Quit	139	Reel off, no Conversation, T.V. on.
46 P	Quit	139	Reel on
101 P	Quit	221	Reel off - T.V. on, Conversation (unintelligible).
113 P	Quit	221	Reel on
338 P	Quit	396	Reel off
450 P	Quit	396	Reel on - BARI - TO - Tony - Conversation on work.
426 P	Quit	1126	Reel off
437 P	Quit	1126	Reel on
631 P	Quit	1150	Reel off, surveillance discontinued

FBNY154

Log ..... Page ..... 1 .....

Day ..... Wed ..... Date ..... 1/24/73 .....

Employee's Name

SA FRANCIS W. HEANEY JR.

Date Stamp

Logs of Monitoring Agent
Jann. 15, 1973 to Jan. 31, 1973.

me	Initial	FT IE 96	Activity Recorded - Living Room
6p	VS	00	Mizur instituted.
12p	VS	05	Phone dialed – Asking for Phyllis.
30 p	VS	16	Barry picking up car.
16p	VS	68	Barry & Apples in conversation
13. p	VS	184	"D," Barry & Apples continue conversation.
32p	VS	303	Overlooks
40p	VS	311	Female conversing w/Apples
41p	VS	317	Apples referred to female as Colette (PH)
13p	VS	340	Barry & female in conversation.
22p	VS	395	address discussed.
4p	VS	402	New Car
30p	VS	440	Extra work; Apples, Barry & Phyllis
32p	VS	453	Overlooks
34p	VS	465	Old chick; person called
32p	VS	488	Apples & Barry in conversation.
39p	VS	497	" – 4 branches
40p	VS	508	Apples tells Barry to get the #.
43p	VS	526	256, 279 – Old way, #'s, discussion of same.
09p	VS	705	"Work"
13p	VS	733	Delivery of ribbons
22p	VS	800	W-B
28p	VS	851	Ribbons; y ribbon
33p	VS	883	643, the old way
44p	VS	981	Bad #, late start
50	VS	1052	Barry departed

EDNY Log 154 Page 1

Day Thurs. Date 1/25/73

Employee's Name

VERNON L. SWINT

Date Stamp

193a

Loss of Monitoring Agent.

Time	Initial	IC OG	Activity Recorded — TAPE SPEED SLOW
?:00PM	RWB		TESUR INSTITUTED
:07PM	RWB		0001 - Bari & Apollo - conversation regarding tapes, 0012 inaudible
16PM	RWB	—	0012 - Conversation inaudible - Background noise.
22PM	RWB	—	0018 - Conversation inaudible - loud music 0026
:41PM	RWB	—	0026 - Conversation inaudible. 0029
:59PM	RWB	—	0029 - Conversation inaudible 0035 loud music.
:15PM	RWB	—	0035 - Conversation inaudible, loud radio 0043
26PM	RWB	—	0043 - Inaudible conversation regarding music being played on radio. 0047.
35PM	RWB	—	Bari departed room.
:49PM	RWB	—	Bari returned to room.
15?M	RWB	—	Inaudible conversation - loud radio.
:37PM	RWB	—	Bari (0055) + Apollo - Conversation inaudible. Bari singing along with music. (0055)
53PM	RWB	—	Bari + Apollo - Conversation inaudible. Apollo going to take the ribbon 0055 - 0069 Loud Music.
:16PM	RWB	—	0070 - Bari & Apollo arguing - inaudible conversation. 0075
:27PM	RWB	—	Apollo departed.
:49PM	RWB	—	TESUR TERMINATED.

EOV.1 Log ..... Page 1

Day TUE. ..... Date 1/24/73

REEL # 1

Employee's Name: RICHARD W. BAKER, JR.

Date Stamp

Logs of Monitoring Agent

Jan. 15, 1973 to Jan. 31, 1973.

Time	Initial	FT / TC / OG	Activity Recorded
3 38 P	jfm	1	Reel on. Barry & Apples talking.
3 51 P	jfm	65	Reel stopped.
3 52 P	jfm	66	Reel on. Barry & Apples talking. TV on.
3 54 P	jfm	78	Reel stopped.
3 57 P	jfm	79	Reel on. Apples talking. TV on.
4 00 P	jfm	96	Reel stopped.
4 03 P	jfm	97	Reel on. Apples talking.
4 15 P	jfm	137	Reel stopped.
4 42 P	jfm	138	Reel on. Apples & Barry talking.
4 44 P	jfm	149	Reel stopped.
4 50 P	jfm	150	Reel on. Apples talking.
4 52 P	jfm	165	Reel stopped.
4 54 P	jfm	166	Reel on. Apples talking.
4 59 P	jfm	188	Reel stopped.
5 35 P	jfm	189	Reel on. Barry & Phyllis talking.
5 38 P	jfm	204	Reel stopped.
5 40 P	jfm	205	Reel on; Phyllis talking.
5 50 P	jfm	207	Reel stopped.
5 54 P	jfm	208	Reel on. Barry heard talking.
6 06 P	jfm	275	Reel stopped.

ESNY 154
Log ..... Page 1
Day SAT. Date 1/27/73

Employee's Name
S/A JAMES F. MITCHELL

Date Stamp

Logs of Monitoring Agent
Jan. 15, 1973 to Jan. 31, 1973.

Time	Initial	FT Ie OG	Activity Recorded
6:15 PM	jfm	276	Reel on. Apples & Barry talking.
6:22 PM	jfm	318	Reel stopped.
6:28 PM	jfm	319	Reel on. Barry talking.
6:29 PM	jfm	324	Reel stopped.
6:44 PM	jfm	325	Reel on. Barry talking.
6:48 PM	jfm	347	Reel stopped.
6:54 PM	jfm	348	Reel on. Barry & Apples talking.
6:56 PM	jfm	360	Reel stopped.

EDNY 154
Log ..... Page 2

Day Sat. Date 1/27/73

Employee's Name
s/A James F. Mitchell

Date Stamp

Logs of Monitoring Agent
Jan. 15, 1973 to Jan. 31, 1973.

Time	Initial	IC OG	Activity Recorded
2:47 PM	[illegible]	0000	Mtrm instituted. Apples speaks to female.
2:55PM	[illegible]	0039	Stopped.
:21PM	[illegible]	0040	Barry speaks to Tony Apples.
:23PM	[illegible]	0052	Mention of SKI & then "work"
3:30PM	[illegible]	0082	Mention of Tom Pecora (phonetic)
:33PM	[illegible]	0103	Mention of Shotgun.
:45PM	[illegible]	0165	Barry mentions cheap rent for apartment.
:47PM	[illegible]	0186	Barry mentions skylocking
:52PM	[illegible]	0201	Barry mentions Joe and skylocking and Tom.
:05PM	[illegible]	0274	Barry talks of [illegible] Bette.
:15PM	[illegible]	0333	Stopped personal talk w. Collelle by Barry
:18PM	[illegible]	0333	Tony + Barry talk. about raise and argument with father.
:27PM	[illegible]	0384	Barry mentions "Big Bobby"
:30PM	[illegible]	0403	Barry talks about work. Apples mentions "2" Ranch
1:39PM	[illegible]	0460	No activity out of M.
4:57AM	[illegible]	0460	Barry speaks.
:10PM	[illegible]	0539	Barry mentions a "book"
:16PM	[illegible]	0587	Barry mentions Joey
5:25PM	[illegible]	0647	Barry mentions Late Circle.
:30PM	[illegible]	0683	Barry mentions Late Circle.
:34PM	[illegible]	0718	Mention of Joey and 50,000 by Barry.
:38PM	[illegible]	0740	Barry mentions some numbers.
:45PM	[illegible]	0795	Tony talks of a lot.
:46PM	[illegible]	0800	Barry asks Tony about a number.
5:50PM	[illegible]	0836	Phyllis enters.
5:54PM	[illegible]	0861	Barry talks about father throwing him out.
:00PM	[illegible]	0908	Tony tells Barry he should get the number.
:07PM	[illegible]	0975	Barry says he will get number.
6:09PM	[illegible]	0994	Barry mentions Nicky Shuffles.
			Barry mentions Little Bobby's book.

EDNY 154
Log ..... Page 1

Day MON. Date 1/29/73
Reel 1
8-15 27th AVE APT 309
QUEENS, N.Y.

Employee's Name
SA GREGORY HENDRICKSON

Date Stamp

Logs of Monitoring Agent

Jan. 16, 1973 to Jan. 31, 1973.

Time	Initial	IC OG	Activity Recorded
6:14PM	[illegible]	1054	Tony mentions Shylock. Barry says Tony isn't getting his ass any more.
2:30PM	[illegible]	1211	Barry mentions a "weekly".
2:35PM	[illegible]	1262	Barry mentions 65 Booth.
2:38PM	[illegible]	1300	Stopped.
2:41PM	[illegible]	1300	Talk of numbers.
2:42PM	[illegible]	1313	Stopped
2:43PM	[illegible]	1313	Barry [illegible] converse
2:46PM	[illegible]	1354	Stopped
2:47PM	[illegible]	1354	Tony speaks.
6:49PM	[illegible]	1400	Tape end.

EDNY 154
Log ..... Page 2

Day MON. Date 1/29/73

Reel 1
8-15 27th AVE APT 309
QUEENS, N.Y.

Employee's Name

SA GREGORY HENDRICKSON

Date Stamp

Logs of Monitoring Agent
Jan. 15, 1973 to Jan. 31, 1973.

Time	Initial	IC OG	Activity Recorded
:57PM	[redacted]	0000	Barry talks.
:03PM	[redacted]	0053	Stopped.
:21PM	[redacted]	0053	Surveillance terminated

EONY 154 Log ..... DATE 1/29/73 Page .....
Day MON PAGE 1 Date .....
Reel 2
8-15 27th Ave APT 309
Queens, N.Y.

Employee's Name
SA GREGORY HENDRICKSON

Date Stam.

Logs of Monitoring Agent

Jan. 15, 1973 to Jan. 31, 1973.

Time	Initial	Ft. ~~16~~ ~~86~~	Activity Recorded
:15pm	CRS	00	MISUR INSTITUTED.
:16pm	CRS	1	Sound of telephone being dialed.
:18pm	CRS	9	Sound of telephone being dialed. Barry talking.
:18pm	CRS	13	Door slams.
:23pm	CRS	41	Tony and Barry talking about Barry's car.
:25pm	CRS	47	Phone rings. Barry answers.
:25pm	CRS	51	Off.
:26pm	CRS	51	On. "Apples" talking.
3:27pm	CRS	58	Barry – "Phyllis".
3:31pm	CRS	77	"Apples" mentions Rocky.
3:33pm	CRS	83	Music turned on.
3:34pm	CRS	92	Joe Black. (Barry)
3:40pm	CRS	122	"Apples" mentions Jimmy Rapp.
3:40pm	CRS	125	(Barry) Mikey not his boss.
3:42pm	CRS	132	"ME-Too" (ph) (Barry)
:44pm ↓	CRS	140 ↓	(Barry)... P is going to pick up:...
:45pm	CRS	148	Talk of work – Barry Tony and Barry.
3:45pm	CRS	152	"ME-Too" (ph).
:47pm ↓	CRS	158 ↓	(Barry) Mentions Bobby, late work: "Apples" + Barry talking:...
3:49pm	CRS	171	↑
3:52pm	CRS	186	Barry talking mentions Bobby.

EDNY
Log 154 Page 1

Day Tues. Date 1/30/73

Employee's Name SA Charles Reid – Reporter

Date Stamp

Logs of Monitoring Agent
Jan. 15, 1973 to Jan. 31, 1973.

Time	Initial	FT. ~~OC~~	Activity Recorded
:53pm	CRB	191	Barry talking about conversation with Bobby.
1:01pm	CRB	228	Barry - FBI.
1:02pm	CRB	235	Barry - FBI. Barry and "Apples" in conversation.
03pm	CRB	240	Barry - FBI
04pm	CRB	245	(Barry) ... Ribbons ....
:04pm	CRB	248	Take out your badge...(Barry)
:08pm	CRB	273	Danbury...(Barry).
1:16pm	CRB	315	Barry talking about branch.
1:19pm	CRB	328	Barry talking .... Shylocking...
1:20pm	CRB	337	"Apples" discussing numbers.
1:20pm	CRB	340	Barry talking about being your own boss.
1:24pm	CRB	357	Apples talking of repeat.
1:24pm	CRB	361	(Barry) Look in .....
4:28pm	CRB	381	(Barry) I got a complaint....
4:29pm	CRB	388	(Barry) P-94....
4:36pm	CRB	438	Door slams. Off
1:56pm	CRB	438	Phone rings. Apples answered.
4:57pm	CRB	450	Off.
5:04pm	CRB	450	On. Door slams. Barry talking.
5:05pm	CRB	455	Apples talking.
5:06pm	CRB	466	Barry mentions Bobby.

EDW Log 154 Page 2

Day Tues Date 1/30/73

Employee's Name SA Charles Reed Lawson

Date Stamp

Logs of Monitoring Agent
Jan. 15, 1973 to Jan. 31, 1973.

Time	Initial	FT. ~~IC~~ ~~OG~~	Activity Recorded
5:09pm	CRQ	482	Barry and "Apples" talking.
5:10pm	CRQ	492	(Barry)... Repeat.....
5:11pm	CRQ	496	(Barry)..Weekly book...
5:11pm	CRQ	500	(Barry)... FBI.. Phone rings. Barry answers.
5:12pm	CRQ	507	Off.
5:13pm	CRQ	507	On.
5:17pm	CRQ	525	Barry talking about pay.
5:23pm	CRQ	570	(Barry) ... Shuffles...
5:24pm	CRQ	574	(Barry)..look for a job tomorrow...
524pm	CRQ	576	(Apples)..I'm with you mike...
5:25pm	CRQ	577	Barry & "Apples" talking of the "old man".
5:29pm	CRQ	609	(Barry).... 131...
5:30pm	CRQ	618	Rubber bands. Barry and "Apples" talking.
5:34pm	CRQ	643	(Barry)...My father...
5:35pm	CRQ	678	(Barry).... FBI....
5:40pm	CRQ	683	(Barry) .... Combos...
5:41pm	CRQ	698	Barry and "Apples" talking.
5:47pm	CRQ	742	Door slams.
5:50pm	CRQ	758	Phyllis & Barry talking.
5:51pm	CRQ	771	"Apples" ..425 & 451.
5:59pm ↓ 6:02pm	CRQ ↓ CRQ	824 ↓ 852	Barry, Apples, and Phyllis talking about being followed and being hit.

EDNY Log 154 Page 3
Day Tues Date 1/30/73

Employee's Name SA Charles Reid Quesner

Date Stamp

Logs of Monitoring Agent

Jan. 15, 1973 to Jan. 31, 1973.

Time	Initial	~~FT~~ ~~OG~~	Activity Recorded
6:13pm	CRB	950	Talk of hits between Barry + Apples".
:14pm	CRB	958	(Barry) ... FBI comes in ...
:25pm	CRB	1074	Barry and "Apples" talking.
:34pm	CRB	1146	("Apples") My action.
:36pm	CRB	1172	(Barry) last time on CCB Bobby...
:37pm	CRB	1177	"Apples" leaves.
:42pm	CRB	1240	Off.
6:45pm	CRB		Barry leaves.
6:45pm	CRB	1240	Mission discontinued.

Log EDNY 157 Page 4

Day Tues Date 1/30/73

Employee's Name SA Charles Reid Queener

Date Stamp

Logs of Monitoring Agent
Jan. 15, 1973 to Jan. 31, 1973.

Time	Initial	IC OG	Activity Recorded
3:00 P		0000	Surveillance instituted - television on.
3 30 P		0001	"Apples" & Barry converse
4 08 P		0020	Barry & Apples talking about a $100.00 double.
4 30 P		0050	Barry discusses Barry Di ~~Borgo~~ Avanzo.
4 55 P		0053	Apples tells Barry they have to move.
5 40 P		0060	Barry says "we got busted today."
5 47 P		0068	"Apples" discusses number with ~~Apples~~ Barry.
5 45 P		0074	Barry discusses "500 & 939".
5 47 P		0086	Barry discusses the days handle.
5 49 P		0091	Apples talks about straight action.
5 53 P		0097	Barry talking about 3-1 odds.
5 54 P		0113	" " " " "
6 25 P			Surveillance discontinued

Log EDNY 154 Page /
Day W. D. Date 1/31/73
REEL #1

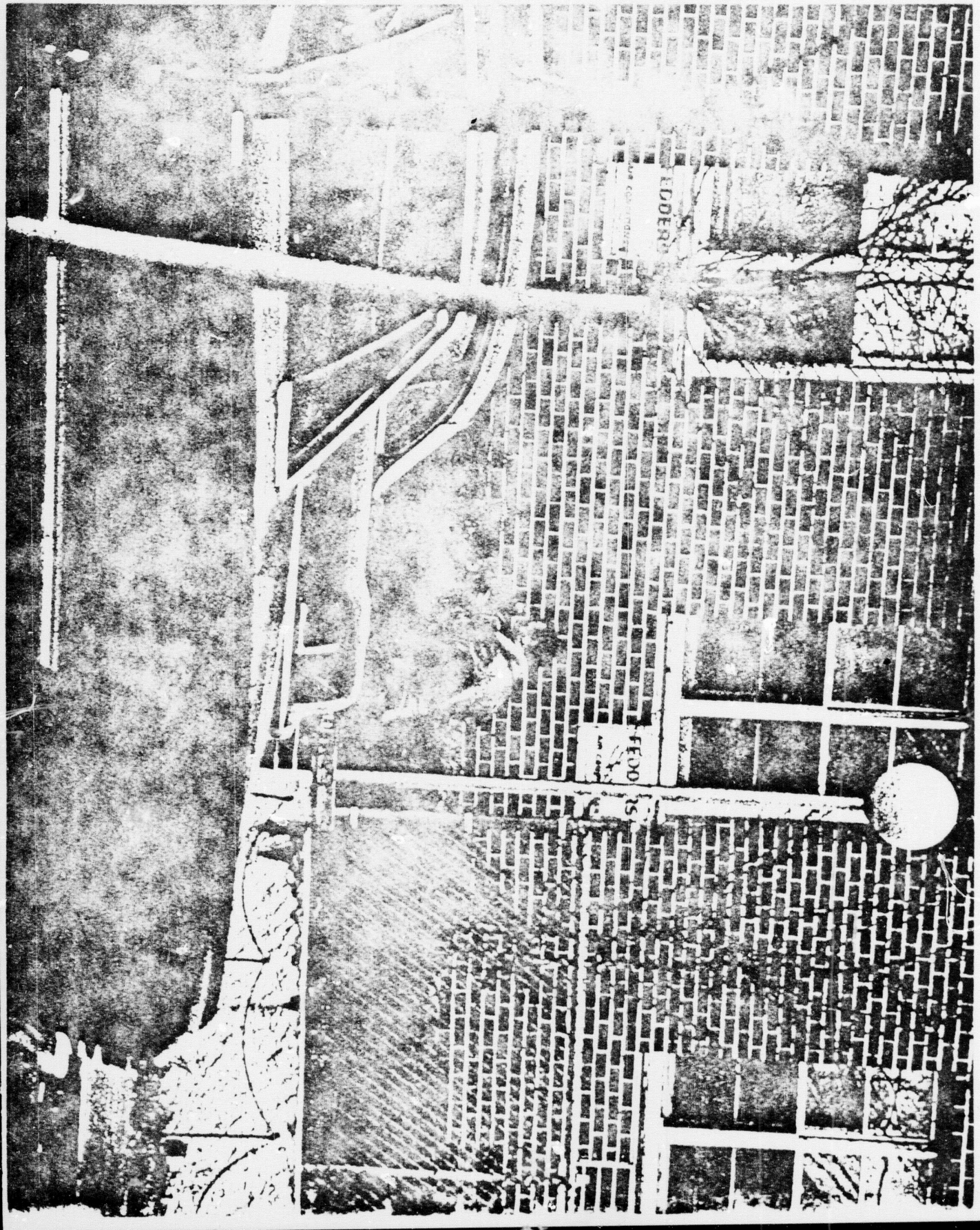
Employee's Name
SA JOHN J. SIMMONS, JR.

Date Stamp

FEEDERS

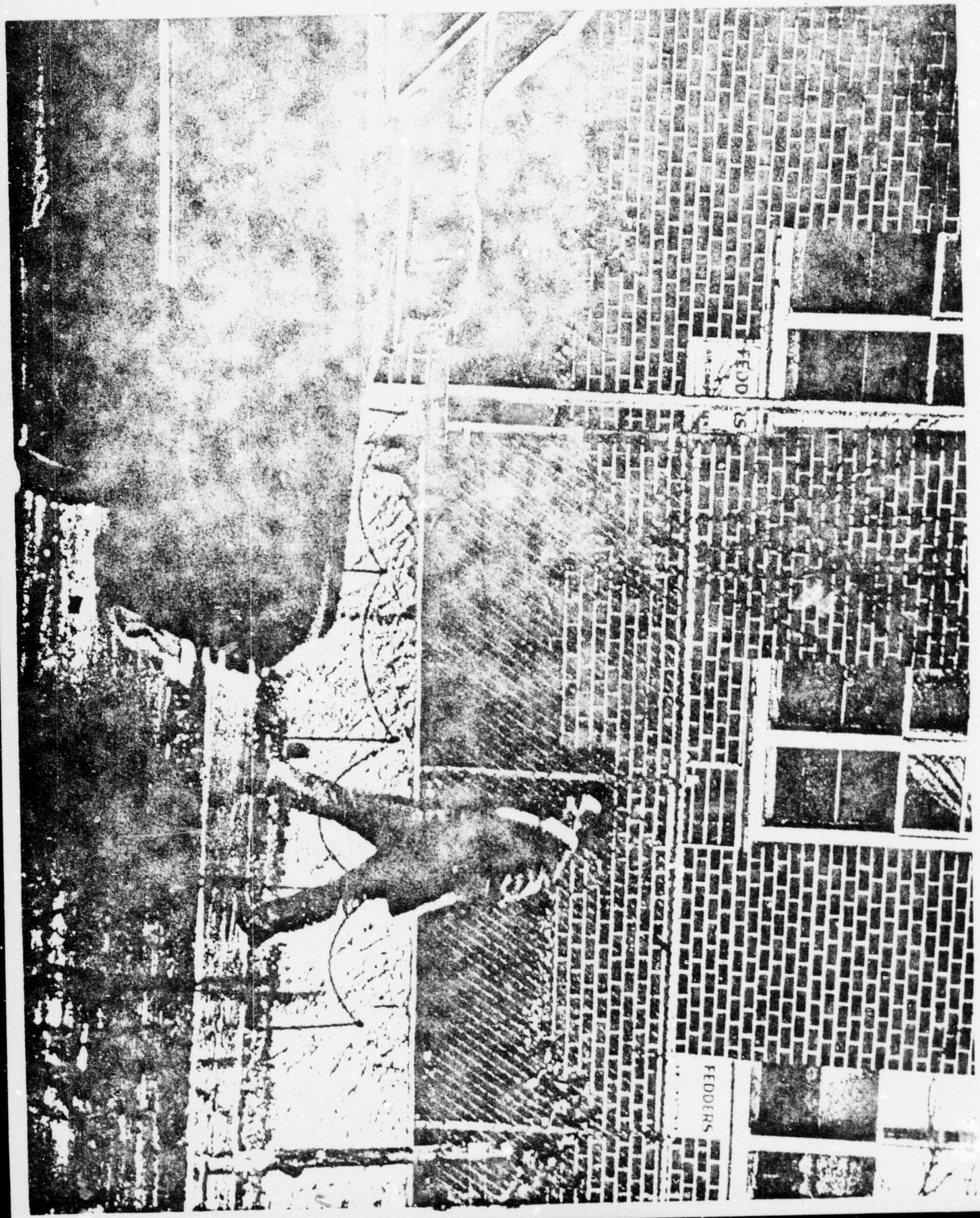
GOVERNMENT EXHIBIT

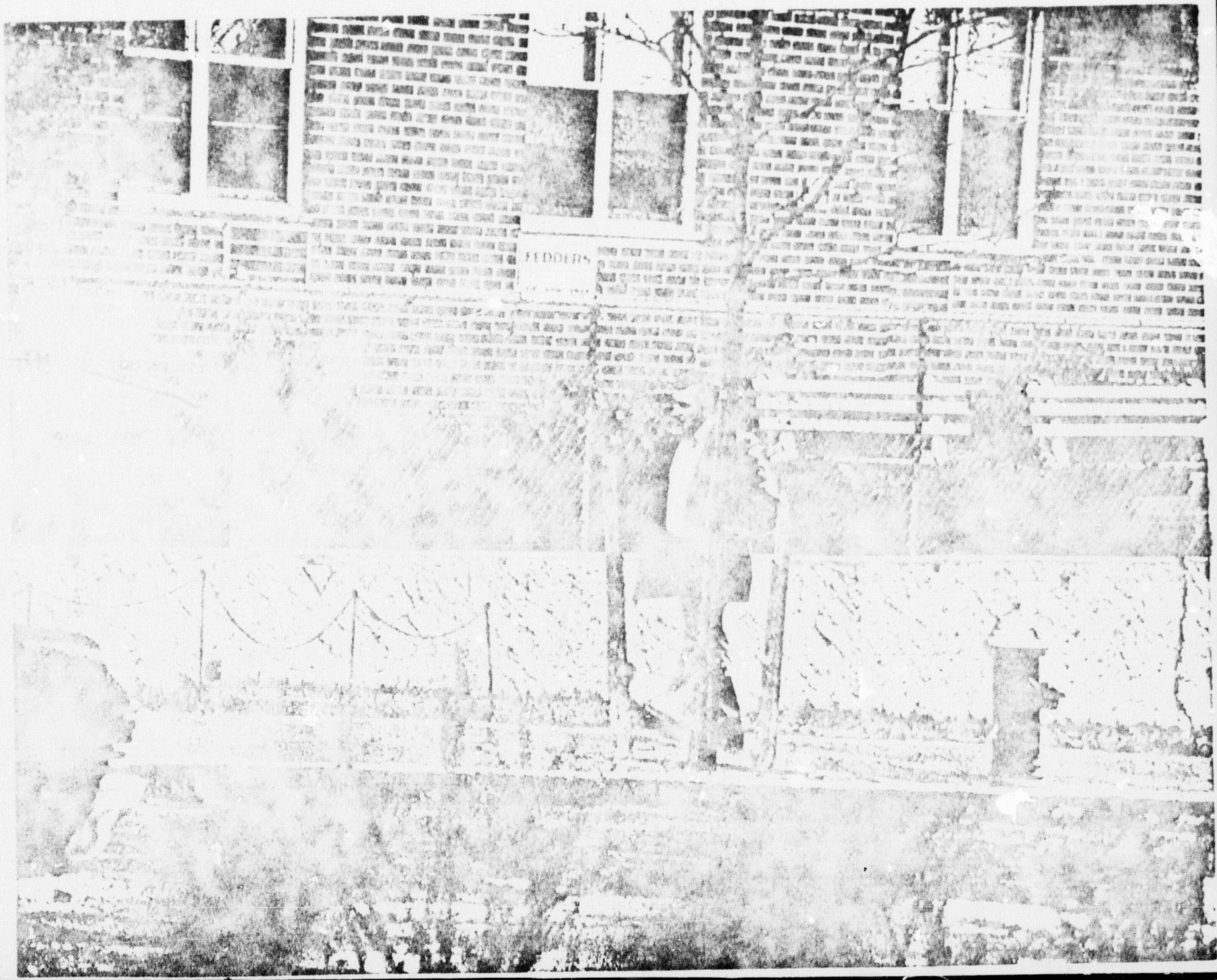
Governments' Exhibit 12/1/72
146



Governments' Exhibit [illegible] 12/4/72

147

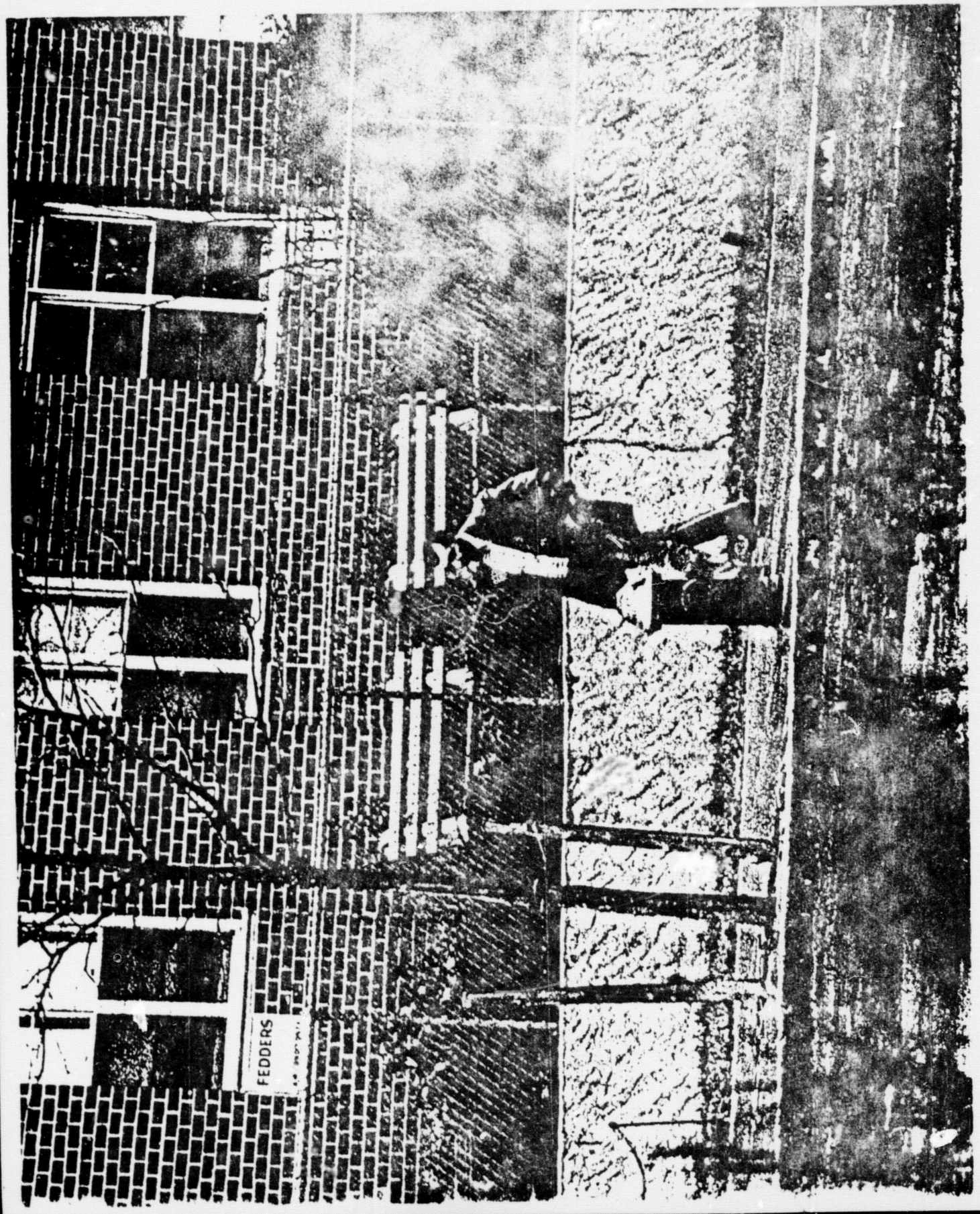



FEDDERS

12/4/72
Ex 4 145

Governments' Exhibit

149



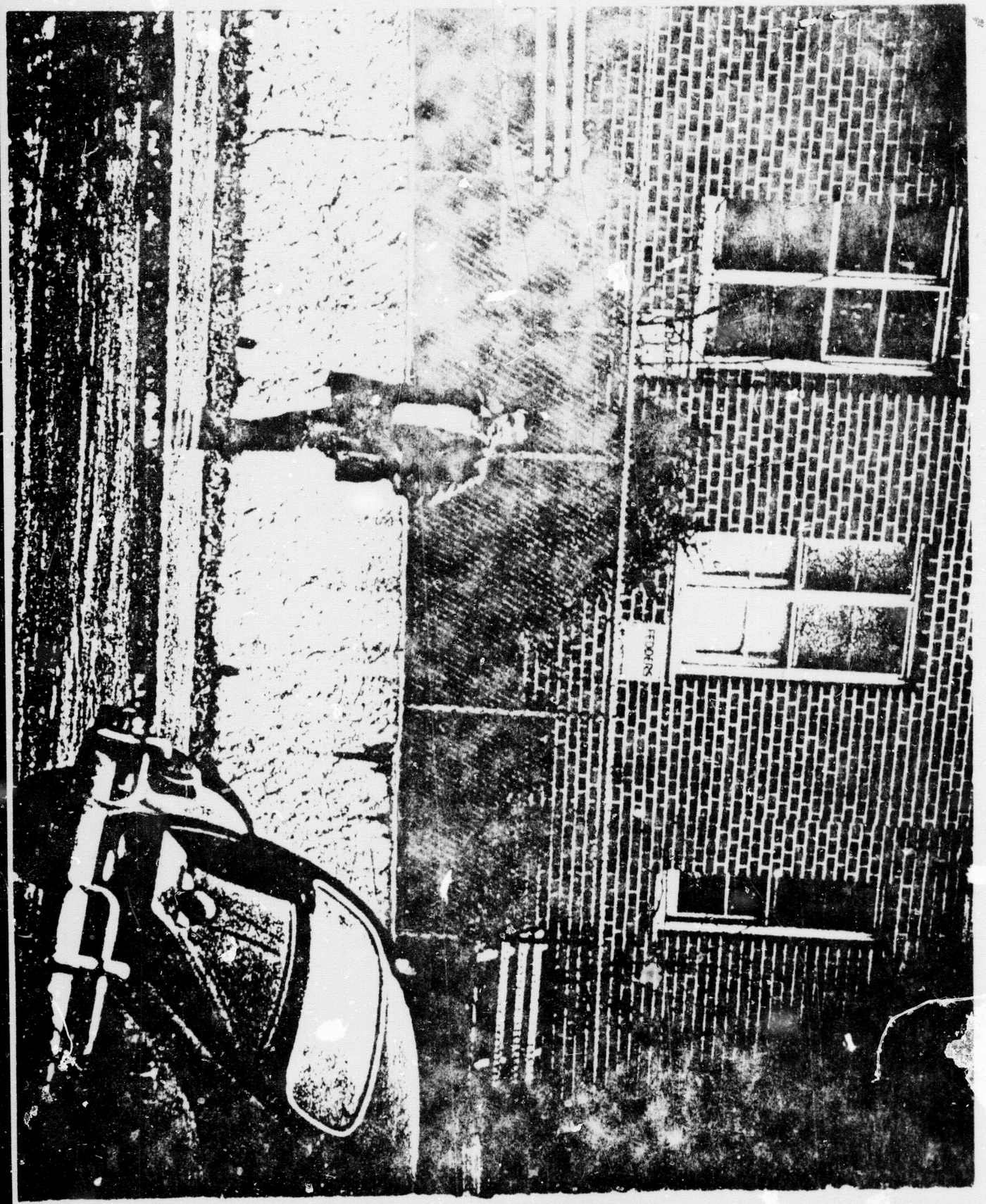
12/4/72
Ex 4
150

Governments' Exhibit

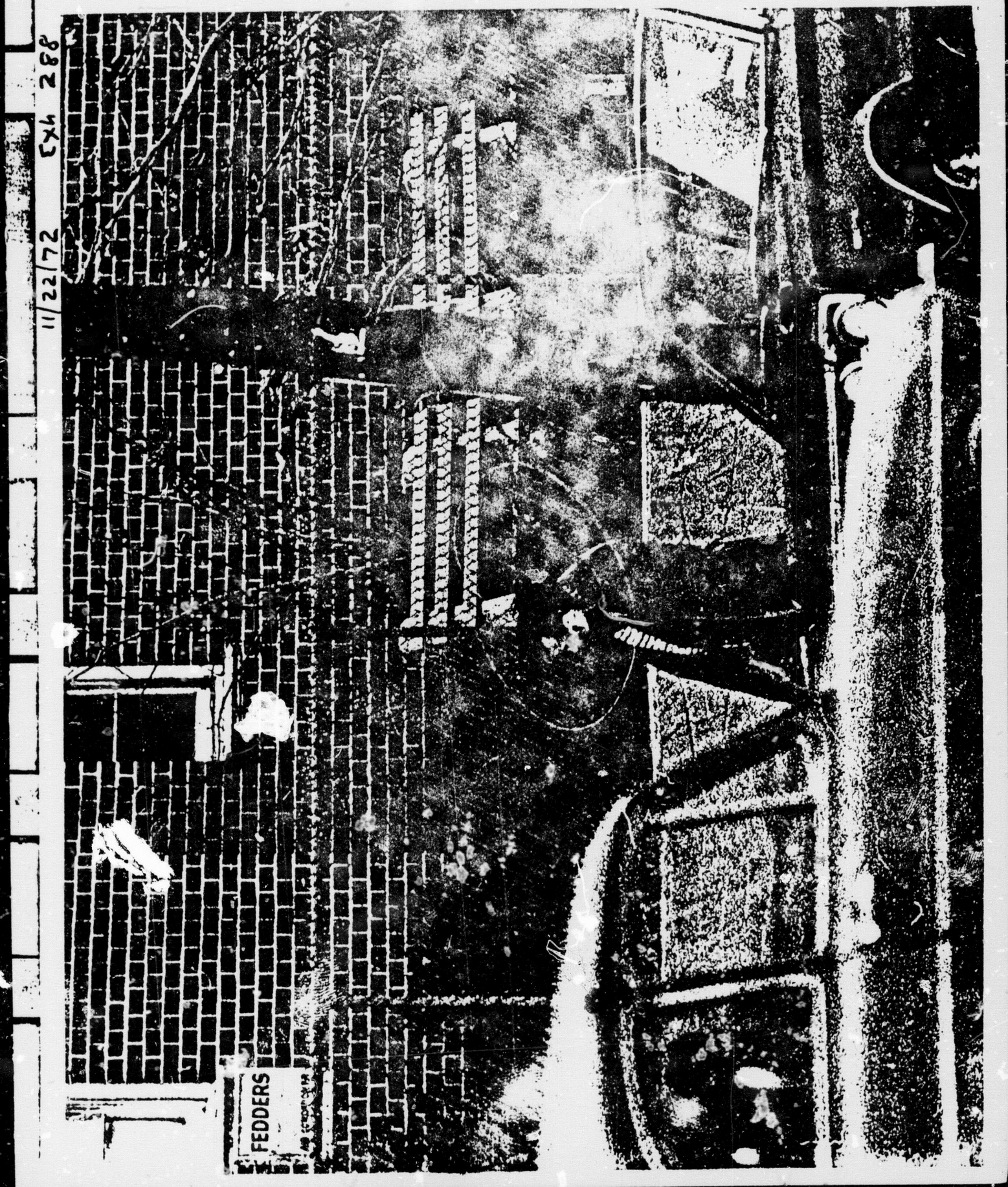
150



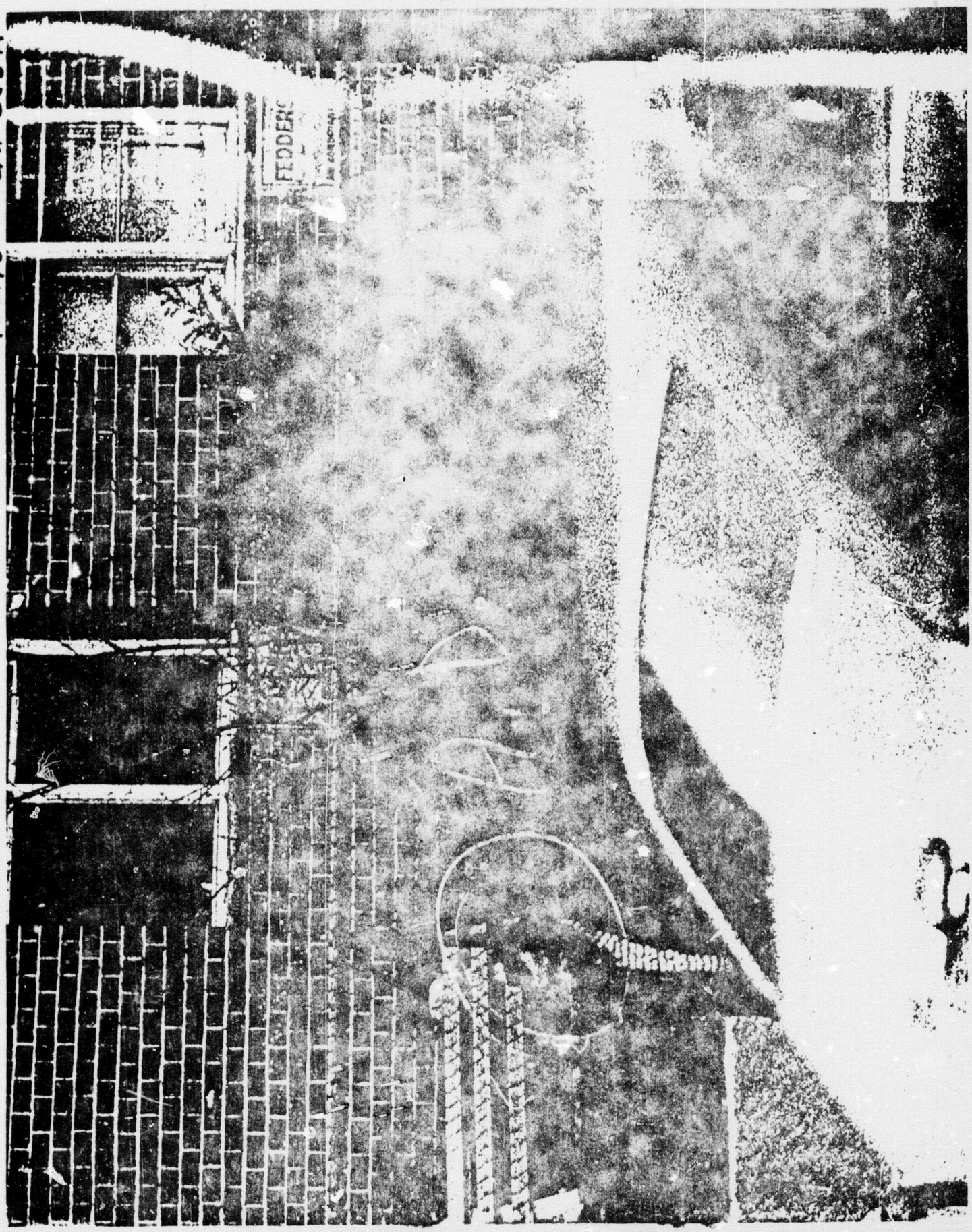
Governments' Exhibit 151 G-151 12/4/72



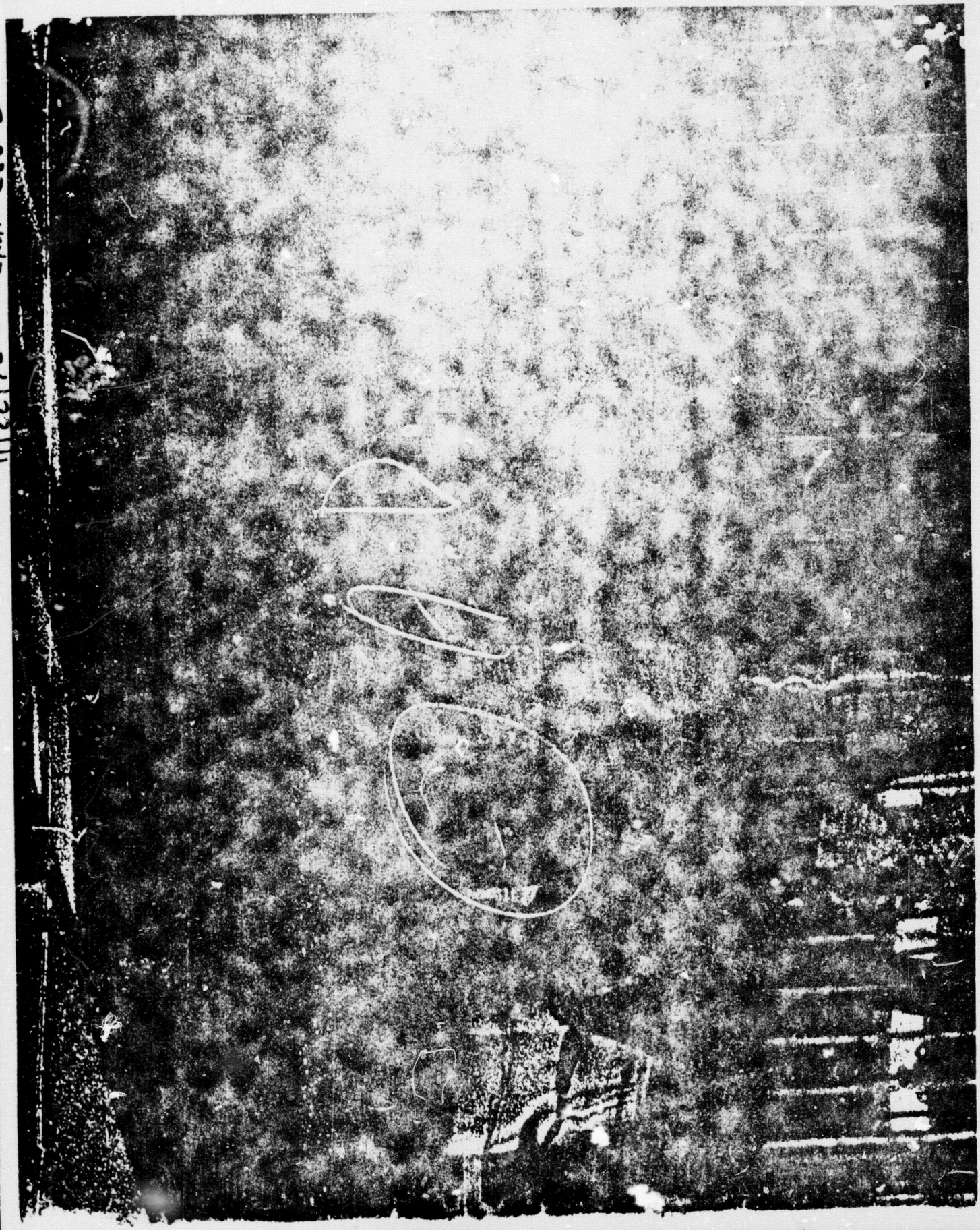
Governments' Exhibit 3



Governments' Exhibit 288a



Governments' Exhibit 288b



375—Affidavit of Service

The Reporter Co., Inc., 11 Park Place, New York, N. Y. 10007

U.S COURT OF ~~APPEALS~~ APPEALS FOR THE SECOND CIRCUIT

USA
V S
SCAFIDI ET AL

AFFIDAVIT OF SERVICE

STATE OF NEW YORK,
COUNTY OF NY , ss:

AFRIM HASKAJ being duly sworn,
deposes and says that he is over the age of 18 years and resides at 1481 42nd st Bklyn NY

That on the 15th day of feb, 1977 19 at

he served the annexed supplemantal appendix to brief of appea llant. upon
thos parties set forth on pages two and three of this affidavit
in this action, by delivering to and leaving with said
the indicated number of copies true cop thereof.

DEPONENT FURTHER SAYS, that he knew the person so served as aforesaid to be the person mentioned and described in the said

Deponent is not a party to the action.

Sworn to before me, this 15th day of feb, 1977 19

Afrim Haskaj

Roland W. Johnson

ROLAND W. JOHNSON
Notary Public, State of New York
No. 4509705
Qualified in Delaware County
Commission Expires March 30, 1977

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

----------X

UNITED STATES OF AMERICA,

Appellee,

-against-

EUGENE SCAFIDI, BARIO MASCITTI, ANTHONY DI MATTEO, SAVERIO CARRARA, MICHAEL DELUCA, JAMES NAPOLI, JR., JAMES V. NAPOLI, SR., ROBERT VOULO and SABATO VIGORITO,

Appellants.

----------X

SUPPLEMENTAL APPENDIX TO BRIEF FOR APPELLANT (ANTHONY DI MATTEO).

Docket No. 76-1495

Appeal from a conviction in the United States District Court for the Eastern District of New York

Albert J. Brackley, Esq.
Attorney for Appellant
Michael DeLuca
186 Joralemon Street
Brooklyn, New York 11201
one copy

Dominick DiCarlo, Esq.
Attorney for Appellant
Robert Voulo
66 Court Street
Brooklyn, New York
one copy

David Gottlieb, Esq.
Federal Defender Services Unit
Attorney for Appellant
Bario Mascitti
United States Courthouse
Room 509
Foley Square
New York, New York 10007
one copy

Richard W. Hannah, Esq.
Attorney for Appellant
Anthony Di Matteo
586 Eastern Street
Brooklyn, New York 11215

Gustave H. Newman, Esq.
Attorney for Appellant
Sabato Vigorito
522 Fifth Avenue
New York, New York 10036
one copy

Thomas J. O'Brien, Esq.
Attorney for Appellant
James Napoli, Jr.
2 Penn Plaza
New York, New York 10001
one copy

Salvatore Piazza, Esq.
Attorney for Appellant
Saverio Carrara
82 Manhattan Avenue
Brooklyn, New York 11222
one copy

Arnold E. Wallach, Esq.
Attorney for Appellant
Eugene Scafidi
11 Park Place
New York, New York 10007
one copy

Max Wild, Esq.
Attorney for Appellant
James V. Napoli, Sr. **one copy**
645 Fifth Avenue
New York, New York 10022

David G. Trager, Esq.
United Stated Attorney for
Eastern District of New York **two copies**
35 Tillary Street
Brooklyn, New York 11201

376—Affidavit of Service by Mail The Reporter Co., Inc., 11 Park Place, New York, N. Y. 10007

U.S .COURT OF APPEALS FOR THE SECOND CIRCUIT

USA

V S

SCAFIDI ET AL

State of New York, County of New York, ss.:

HAROLD DUDASH
agent for Richard W. Hannah, , being duly sworn deposes and says that he is the attorney for the above named appellatn Anthony Di Matteo herein. That he is over 21 years of age, is not a party to the action and resides at 2346 Holland avenue, BX, NY

That on the 15th day of February, 1977, 19 , he served the within supplemental appendix to brief for appellant

upon the attorneys for the parties and at the addresses as specified below

Salvatore [redacted] Piazza, 824 Manhatten avenu, Brooklyn, NY 11222

[redacted]
Michael E. Moore c/o T. George Gilinsky, P.O. Box 899 Ben Franklin STation
Washington , DC. 20044

by depositing two copies.
to each of the same securely enclosed in a post-paid wrapper in the Post Office regularly maintained by the United States Government at
90 Church Street, New York, New York
directed to the said attorneys for the parties as listed above at the addresses aforementioned, that being the addresses within the state designated by them for that purpose, or the places where they then kept offices between which places there then was and now is a regular communication by mail.

Sworn to before me, this 15th day of February, 1977

ROLAND W. JOHNSON,
Notary Public, State of New York
No. 4509705
Qualified in Delaware County
Commission Expires March 30, 1977